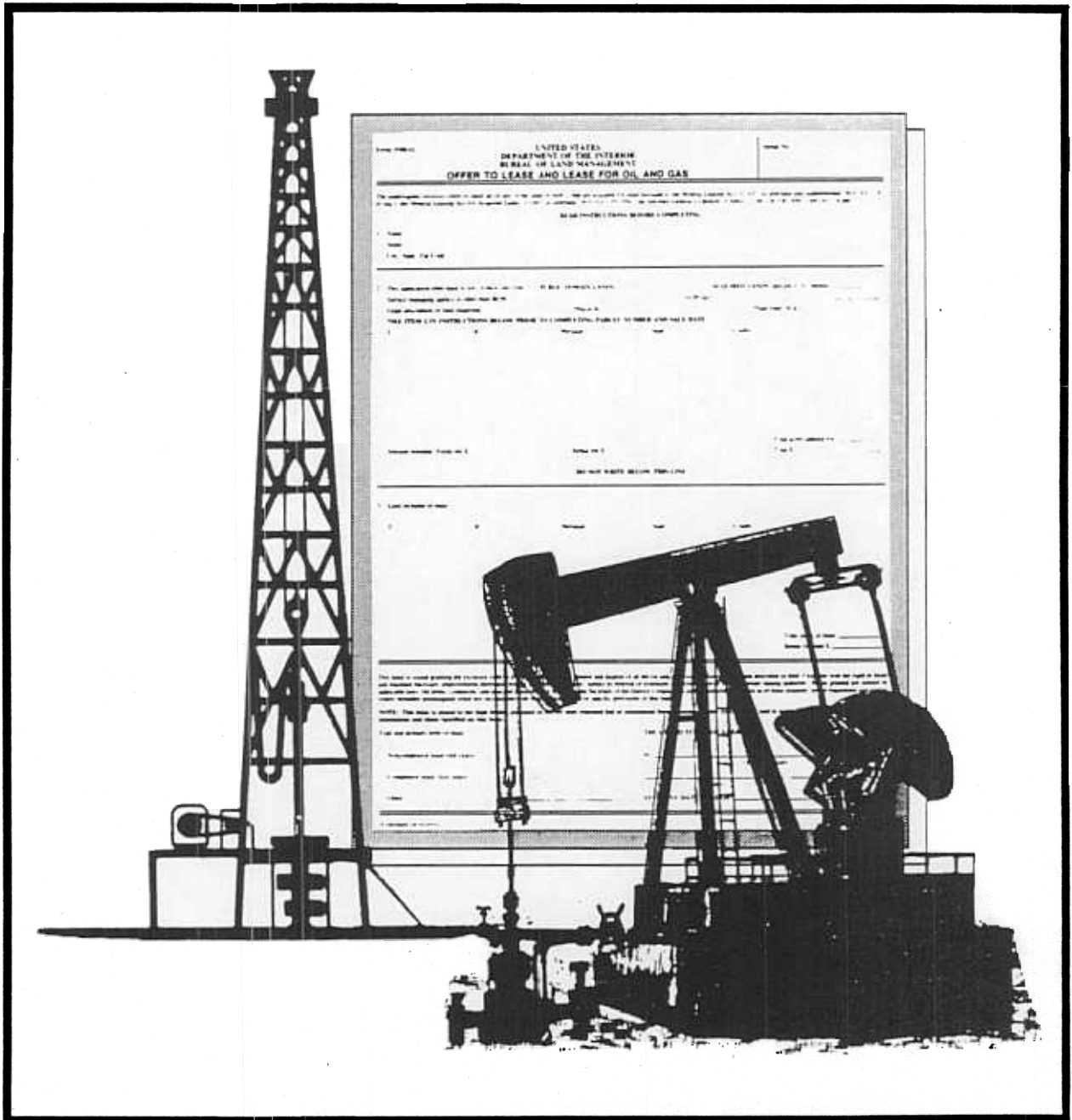




Oil and Gas Adjudication Handbook

Relinquishments, Terminations, and Cancellations



BLM MANUAL HANDBOOK 3108-1

Revised 1995

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

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Index by Keywords

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONSIntroduction

This Handbook addresses the processing of oil and gas lease relinquishments, terminations, petitions for lease reinstatement, Class I, II, and III reinstatements, and lease cancellations. The Handbook also provides guidance concerning bona fide purchaser provisions and waivers of lease rights that may be requested by lessees during the course of lease cancellation proceedings.

This Handbook is intended to be a comprehensive guide to be used in conjunction with Manual Section 3108 and the regulations at 43 CFR Subpart 3108. When lease relinquishments are processed, this Handbook is to be used in conjunction with Handbook 3104-1 with respect to termination of the period of liability of the bond. For terminated leases, the BLM-approved Forms 3108-2, 3108-2a, and 3108-2b shall be used to notify the lessee of the appropriate lease reinstatement provisions for which the lease may be eligible. The Automated Land and Mineral Record System (ALMRS) Case Recordation/Records System Release 1.0 action codes used in conjunction with the lease actions addressed throughout this Handbook are indicated to ensure that the automated serial register pages/case abstracts reflect the current status of each oil and gas lease. The mandatory action codes shall be entered into the ALMRS Case Recordation/Records System Release 1.0 within 5 working days of the action taken. For a listing of ALMRS Case Recordation DE 1775 and 2910 Action Codes applicable to Handbook 3108-1, see the last appendix in this Handbook.

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I. Relinquishments

Keywords

A. General

The record title holder, or the holder's duly authorized agent, may surrender a lease or any legal subdivision thereof by filing a written relinquishment in the proper Bureau of Land Management (BLM) office. No special form is required. A filing fee is not required. If the relinquishment is filed by the record title holder's authorized agent or attorney-in-fact, the signature must reveal the relationship to the record title holder.

RELINQUISHMENT

The term "record title holder" means the holder or holders of 100 percent of the record title of the lands involved in the relinquishment. Therefore, anything less than 100 percent of the record title, i.e., 10, 25, 90 percent, etc., cannot be relinquished. Accordingly, the relinquishment of a lease or any legal subdivision thereof is required to be signed by all of the record title holders.

If more than one record title holder is involved, in lieu of a single relinquishment that is signed by all of the record title holders, multiple relinquishments may be filed in order to accomplish the relinquishment of 100 percent of the record title. If multiple documents are filed, the relinquishment shall not take effect until the separate documents total 100 percent of the record title. The effective date is the filing date of the last relinquishment document. If less than a 100 percent record title relinquishment is filed by one of several lessees for all or a legal subdivision of a lease, and the lease anniversary date arrives before all co-lessees have filed relinquishments, a partial rental payment to the Minerals Management Service (MMS) shall result in termination of the lease (see Section I.C, below).

MULTIPLE
LESSEES - LEASE
RELINQUISHMENT

In accordance with the Mineral Leasing Act (MLA) of 1920, as amended August 8, 1946 (30 U.S.C. 187b), the relinquishment of an oil and gas lease or legal subdivision thereof is effective immediately upon filing, but is subject to the continued obligation of the record title holder and surety to pay all accrued rental and royalties, place all wells on the lands to be relinquished in condition for suspension or abandonment, and complete reclamation requirements, in accordance with the terms of the lease and the regulations at 43 CFR 3108.1. At the discretion of the authorized officer, lands in a relinquished lease may be offered for competitive leasing with the requirement that the new lessee shall be responsible for reentering or plugging the well.

RELINQUISHMENT
EFFECTIVE ON
DATE OF FILING

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Keywords

A relinquishment is effective as of the date it is filed, despite the fact that a prospective assignee of an interest in the lease may object. Either a copy of the relinquishment is to be returned to the lessee or a decision may be prepared indicating the effective date of the relinquishment (see Section I.D, below).

A relinquishment shall not be withdrawn once it is filed. The Secretary of the Interior has no authority to reinstate an oil and gas lease that has been relinquished. (See Roy W. Reed, 7 Interior Board of Land Appeals (IBLA) 321 (1972).) The IBLA also has ruled in J.M. Dunbar, A.G. Andrikopoulos, 62 IBLA 119 (1982), that where a lessee relinquishes an oil and gas lease, the lessee is exercising a right given by the MLA, and the BLM may not interfere.

RELINQUISHMENT
WITHDRAWAL
NOT ALLOWED

A relinquishment may not be for a separate zone or deposit or for less than a lot or quarter-quarter section unless that is all the land included in the lease.

RELINQUISHMENT
FOR SEPARATE ZONE
NOT ALLOWED

Minor deficiencies in the relinquishment, such as an obvious typographical error in the legal description, may be clarified/corrected with the effective date being the date the relinquishment was originally filed.

MINOR ERRORS IN
RELINQUISHMENT
CORRECTABLE

The MMS may receive indication from the lessee in the form of a notation on the courtesy billing notice, a letter, or a relinquishment format, that the lessee does not wish to retain the lease. The documentation from the lessee is forwarded to the State Office by the MMS, and is to be filed in the case file with a notation that a termination notice is not required to be sent. However, if the notification is received from someone other than the current lessee, such as a pending assignee, or from only one of several co-lessees, a termination notice shall be mailed by the BLM State Office (see Section II.D, below).

RELINQUISHMENT
NOTICE RECEIVED
BY MMS

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B. Filing

Responsible Official	Step	Action	Keywords
Receiving Official	1.	Date-time stamp the relinquishment and send it to Docket.	RELINQUISHMENT FILED - DATE-TIME STAMP
Docket	2.	Attach relinquishment to the lease case file and send to Adjudication for processing.	

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C. Processing

Responsible

Official	Step	Action	Keywords
Adjudication	1.	Examine the relinquishment to ensure that the record title holder and lease serial number match. Only one copy of the relinquishment that has been executed by each record title holder or duly authorized agent, e.g., an attorney-in-fact, acting on behalf of each record title holder is required.	REVIEW RELINQUISHMENT
	2.	If a partial relinquishment, verify the relinquished lands and retained lands, and ensure that the acreages are correct.	PARTIAL RELINQUISHMENT
	2a.	Verify that the partial relinquishment is not less than a lot or quarter-quarter section, i.e., not less than a legal subdivision, and is not for a separate zone or deposit.	
		Verify that the lease had not terminated for failure to pay the annual rental.	
		If a partial relinquishment is filed in the wrong office or is filed in the proper BLM office after the lease anniversary date and rental only for the retained lands is paid to the MMS, the lease automatically terminates (see Appendix 1).	
	3.	If an entire relinquishment is filed, the lands do not need to be described as long as the relinquishment is clear that it is for the entire lease.	ENTIRE RELINQUISHMENT
	3a.	If the relinquishment indicates that it is for the entire lease and the lands are also described, verify the accuracy of the described lands and acreage.	

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Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
	3b.	If an error is found, correct it as long as the relinquishment clearly is intended to cover the entire lease, in which case, the effective date of the relinquishment shall remain the date that the relinquishment was originally filed in the proper BLM office.	RELINQUISHMENT CORRECTED - EFFECTIVE DATE SAME DATE AS ORIGINALLY FILED

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D. Acceptance

Responsible Official	Step	Action	Keywords
Adjudication	1.	Indicate the BLM acceptance of the relinquishment on the original copy, noting the date that the relinquishment is effective.	ACCEPTANCE OF RELINQUISHMENT
	1a.	Note that the effective date is the date when the relinquishment is date-time stamped in the proper BLM office, not the date when it is received in any other agency office, such as with the MMS.	
	2.	Retain original copy of relinquishment in the case file and send a copy to the lessee.	RELINQUISHMENT ORIGINAL FILED IN CASE FILE
	2a.	<u>OPTIONAL</u> : Offices wishing to maintain uniform records and/or to make a more formal acceptance of relinquishments, may prepare a decision to indicate the BLM acceptance and effective date of the relinquishment (see Illustrations 1 and 2).	
	3.	For a lease in terminable status in the MMS automated data system, notify the MMS's Data Management Division (MMS-DMD) of the relinquishment with an accounting advice (see Illustrations 3, 4, and 5).	NOTIFY MMS-DMD OF RELINQUISHMENT
	4.	For a lease in nonterminable status, notify the MMS-DMD of the relinquishment with a copy of either the relinquishment, the decision (if one is prepared), or a memorandum. For an example of the memorandum, see Illustration 6.	

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Responsible Official	Step	Action	Keywords
	5.	If the full rental is paid for the next lease year and a partial or entire relinquishment is filed on or before the anniversary date, authorize a refund for the appropriate amount (entire next year's rental if the relinquishment was for entire lease, or excess of the amount of rental required for the retained lands if the lease was relinquished in part).	RELINQUISHED LEASE - AUTHORIZE RENTAL REFUND FOR APPROPRIATE AMOUNT
	6.	Advise the BLM Field Office fluid mineral operations staff of each relinquished lease that has had actual or allocated production and, if known, has had surface activity without actual or allocated production. Advise the surface management agency (SMA) of each relinquished lease that includes lands within its jurisdiction. Send a copy of either the relinquishment, the decision, or a memorandum. For an example of the memorandum, see Illustration 6.	ADVISE FIELD OFFICE OPERATIONS AND SMA OF LEASE RELINQUISHMENT
	7	Distribute copies of relinquishment, and send completed accounting advice to Accounts/MMS-DMD.	ACCOUNTING ADVICE - RELINQUISHMENT
ALMRS Entry	8.	Update the case in the ALMRS automated system using the current data standards:	AUTOMATED NOTATION
	8a.	Enter Action Date (MANDATORY ACTION CODE): Date relinquishment filed; DE 1775 Action Code 780/DE 2910 Action Code 311; <u>OR</u>	
	8b.	Enter Action Date (MANDATORY ACTION CODE): Date partial relinquishment filed; DE 1775 Action Code 781/DE 2910 Action Code 312.	
	8c.	Enter Action Date (MANDATORY ACTION CODE): Date entire relinquishment accepted; DE 1775 Action Code 782/DE 2910 Action Code 310; <u>OR</u>	

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Responsible

Official	Step	Action	Keywords
	8d.	Enter Action Date (MANDATORY ACTION CODE): Date partial relinquishment accepted; DE 1775 Action Code 783/DE 2910 Action Code 890; <u>OR</u>	
	8e.	Enter Action Date (MANDATORY ACTION CODE): Date relinquishment accepted in part; DE 1775/2910 Action Code 784.	
	8f.	Update ALMRS automated system to change legal land description and acres of lease, as applicable.	
	8g.	When relinquishment is for entire lease, remove DE 1775/2910 Action Code 763 and enter DE 1775/2910 Action Code 970 to close case.	
Title Records	9.	Remove the lease number and make other appropriate notations on the records and oil and gas use plat, and note the historical index. Forward to Docket.	RECORDS NOTATIONS
Docket	10.	If a partial relinquishment, file the case file on the regular shelf.	
	11.	If a total relinquishment, file the case file with the closed files.	
Adjudication	12.	Process the lands for competitive leasing, as appropriate.	RE-LEASE LANDS
	13.	If an individual lease bond had been accepted and the period of liability has not been terminated, request a report from the Field Office fluid mineral operations staff as to whether the period of bond liability can be terminated (see Handbook 3104-1).	

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KeywordsE. Unacceptable

A relinquishment is unacceptable if it is not signed by all of the record title holders (or a duly authorized agent, such as an attorney-in-fact). A relinquishment also is unacceptable if the lease has previously expired or terminated (see Illustrations 7 and 8). And, if the relinquishment is for a separate zone or deposit or is for less than a lot or quarter-quarter section (smallest legal subdivision) and the relinquished land is not the only land included in the lease, reject the relinquishment as unacceptable by a decision with the right of appeal (see Illustration 9).

UNACCEPTABLE
RELINQUISHMENT

If a lessee intends to file a partial relinquishment near the lease anniversary date and pay rental for only the retained lands, the relinquishment must be properly filed in the proper BLM office before the lease anniversary date and the rental for the retained lands must be paid to the MMS. Otherwise, the partial relinquishment shall be unacceptable because the lease will have automatically terminated by operation of law for failure to pay the full rental for the entire lease acreage (see Appendix 1).

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
ALMRS Entry	1.	Update the case in the ALMRS automated system using the current data standards:	AUTOMATED NOTATION
	1a.	Enter Action Date (MANDATORY ACTION CODE): Date relinquishment filed; DE 1775 Action Code 780/DE 2910 Action Code 311; <u>OR</u>	
	1b.	Enter Action Date (MANDATORY ACTION CODE): Date partial relinquishment filed; DE 1775 Action Code 781/DE 2910 Action Code 312.	
	1c.	Enter Action Date (MANDATORY ACTION CODE): Date all or part of relinquishment is invalid/denied; DE 1775 Action Code 785/DE 2910 Action Code 313; Action Remarks: Reason for denial.	

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II. TerminationsKeywordsA. General

Annual rental is due on or before the anniversary date of a lease on which there is no well capable of producing oil or gas in paying quantities. If the annual rental is not paid for a lease on or before the first day of the lease year (the lease anniversary date), automatic termination of the lease is mandated by the MLA (30 U.S.C. 188(b)). A lessee has until the close of business on the lease anniversary date to pay the rental to the MMS. If the MMS office is closed on the anniversary date, payment received on the next day the MMS office is open to the public shall be deemed timely filed. A rental payment sent to any other office is to be returned to the sender and is not to be forwarded to the MMS. Expeditious return of such a misdirected rental payment is to be made whenever possible to allow the sender time to meet the deadline when the payment must be received by the MMS. When the MMS automated system shows a lease as terminated and, subsequently, a lessee provides proof of a timely rental payment, but with an incorrect or no lease serial number identified on the check, the lease does not terminate. An incorrect serial number or no serial number displayed on the check is not grounds for termination of a lease unless the rental payment was not timely received by the MMS.

LEASE
TERMINATIONMISDIRECTED
RENTAL PAYMENT
TO BE RETURNED
TO SENDER

The MMS can use the Automated Clearing House (ACH) system to accept rental payments. The ACH is an electronic payment system that is the functional equivalent of a check clearing facility. The system works as follows:

AUTOMATED
CLEARING HOUSE
SYSTEM USED
BY MMS FOR
RENTAL PAYMENTS

The payor provides instructions and all the pertinent information to its bank. The payor's bank transmits the rental payment money and the information to the local ACH. The local ACH forwards the money and information overnight to the U.S. Treasury's/MMS's agent bank, the Mellon Bank. The Mellon Bank also transmits the money and summary information through the New York Federal Reserve Bank to the U.S. Treasury on the same day. The MMS retrieves the ACH payment information from the Mellon Bank and verifies the deposit amounts through the U.S. Treasury's CASHLINK system.

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Keywords

Under the ACH system, a lease will terminate for failure to pay rental timely if the payment is made by the ACH but is not actually received on or before the lease anniversary date by the Mellon Bank or the Treasury Department, and the payment has been designated for posting to the MMS account. If the payment is received timely by the Mellon Bank, and through error the funds are not posted on time to the MMS account, the rental payment will be considered as received by the MMS when first received by the Mellon Bank. However, if a posting error is due to an improper entry made by the payor, the payor's agent, or the ACH, the payment will be deemed received by the MMS when either the payor's agent bank for the ACH or the ACH corrects the error and properly completes the transfer with the Mellon Bank.

TERMINATION
PROVISIONS
WHEN ACH PAYMENT
SYSTEM USED

A lease issued prior to the enactment of Public Law (PL) 83-555 that amended the MLA, effective July 29, 1954, is not subject to the automatic termination provision unless the lessee elected, by written notice, to subject the lease to such provision. (See Allied Chemical Corp. et al., 40 IBLA 272 (1979).) Most of these leases were created as a result of segregation of nonunitized lands out of a unitized lease that was in its extended term by reason of production at the time of segregation, that resulted in a new lease held by production indefinitely based upon production from the unitized base lease. The new lease is held by production, but is on a rental basis.

LEASES NOT
SUBJECT TO
AUTOMATIC
TERMINATION

Similarly, if a lease that is subject to PL 83-555 has a rental that comes due on a date other than the anniversary date, the lease does not automatically termination because PL 83-555 only applies to the annual rental that is due and payable on or before the lease anniversary date. Likewise, for a lease that is subject to PL 83-555, if the BLM did not give the lessee notice that the term of the lease had been extended (when the lease is extended because the conditions for extension have been met, but the BLM has not officially notified the lessee of the extension) and if the annual rental that is due and payable on the lease anniversary date is not timely paid, the automatic termination provision of PL 83-555 does not apply. (See Handbook 3105-1, Appendix 4.)

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Keywords

Rights-of-way oil and gas leases issued under the Act of May 21, 1930 (30 U.S.C. 301-306), and leases in rental status that are committed to a unit agreement for which there is a unit well capable of production also are not subject to the automatic termination provision of PL 83-555.

1930 ACT LEASES
NOT SUBJECT TO
AUTOMATIC
TERMINATION

For more information about the processing of leases where automatic termination does not occur for failure to pay rental timely, see Steps II.D.1b, 1c, and 1d, below.

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KeywordsB. Rental Deficiency1. Nominal Deficiency

A lease does not automatically terminate if the annual rental payment is received timely but is deficient by not more than \$100 or not more than 5 percent of the total payment due, whichever is less (nominal deficiency). And, if the amount of a rental payment was made in accordance with a rental or acreage figure as stated in a courtesy billing notice or a decision that was in error, and the payment made resulted in a deficiency, the lease shall not automatically terminate (see McClellan Oil Corp., 76 IBLA 322 (1983)). For nominal deficiencies only, an oil and gas deficiency notice (see Illustration 10) is sent by the MMS to the responsible payee of record by certified mail, return receipt requested, allowing 15 days from the date of receipt or until the rental due date, whichever is later, to submit the balance due to the MMS. After the BLM State Office (SO) Adjudication is notified by the MMS that the nominal deficiency was not paid, i.e., the lease is indicated as terminated in the automated system, a lease termination notice using the standard BLM form shall be issued to the lessee by the SO Adjudication outlining, as appropriate, either the Class I or II provisions, or both, for reinstatement (see Section III, below). If a petition for reinstatement is not filed, the SO Adjudication must prepare an accounting advice to the MMS-DMD authorizing a refund of the deficient rental payment (see Illustration 11).

RENTAL
DEFICIENCY
NOMINAL

ERRONEOUS
BILLING
AMOUNT

2. More than Nominal Deficiency

If the SO Adjudication becomes aware of a partial rental payment that is more than nominally deficient, send a notice to the lessee advising of the deficiency only if sufficient time exists for the lessee to remit the deficient amount to the MMS (see Illustration 12). (See also Appendix 1 for a discussion about partial payments that are more than nominally deficient.) In most cases, however, the BLM will not be aware of payments that are more than nominally deficient, since the MMS normally does not provide this information to the SO Adjudication.

RENTAL
DEFICIENCY
MORE THAN
NOMINAL

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KeywordsC. Terminated Listing

Reports are to be called from the ALMRS Case Recordation to identify the leases that have terminated, based on the BLM/MMS Automated Data Transfer System input from the MMS-DMD into the ALMRS Case Recordation automated system.

TERMINATED
AND EXPIRED
LEASE REPORTS

When a late rental payment is received by the MMS-DMD, the envelope in which a late rental payment check was submitted to the MMS and a copy of the check will be furnished to the BLM SO Adjudication. These documents will indicate the date that they were received by the MMS.

LATE PAYMENT -
ENVELOPE
PROVIDED BY
MMS-DMD

When the annual rental payment was transmitted using the ACH, for reinstatement purposes, reasonable diligence under the MLA (30 U.S.C. 188(c)) shall be defined as receipt of the proper payment message by the ACH on or before the lease anniversary date. When the MMS-DMD receives a late payment via the ACH, a printout will be furnished by the MMS to the SO Adjudication instead of an envelope. The printout will serve as the documentation required in the lease case file to make appropriate decisions regarding oil and gas lease reinstatements (see Illustration 13).

REASONABLE
DILIGENCE
FOR TIMELY
RENTAL PAYMENT
WHEN USING ACH

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
Adjudication	1.	Request from Docket the case files for those leases reported as terminated.	TERMINATED LISTING VERIFICATION
Docket	2.	Pull the case files and send them to Adjudication.	

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D. Processing

Responsible Official	Step	Action	Keywords
Adjudication	1.	When a lease is reported as being terminated, review the lease case to check whether the lease actually did terminate using the steps below.	
	2.	Check the MMS automated Business Information System (BIS) to ensure that a lease has not been erroneously reported as terminated because the lease is recorded in the MMS's BIS system with an incorrect anniversary date or acreage amount at the time the MMS reported the termination. Sometimes an unidentified payment takes additional time to be properly recorded in the BIS, or the rental may be applied to the wrong lease year. Also, sometimes the ALMRS Case Recordation lease records may show evidence of rental payments that have not been correctly recorded by the MMS.	TERMINATION RECORDED BY MMS BUT LEASE DID NOT TERMINATE
	3.	Review all evidence that suggests that the lease was erroneously terminated. If the lease did not actually terminate, correct the lease records, ALMRS Case Recordation, and the MMS records, and take all other corrective actions that are required to restore the lease to the authorized status.	
	4.	If the MMS automated system reports a right-of-way lease issued pursuant to the Act of May 21, 1930 (30 U.S.C. 301-306), as terminated, such a lease does not automatically terminate. Issue a decision indicating that the lease is in default of the lease terms for failure to pay all or part of the annual rental and, unless the payment is received within 30 days of receipt of the decision, the lease will be cancelled (see Illustration 14). Send a copy of the decision to the MMS-DMD.	RIGHT-OF-WAY LEASE NOT SUBJECT TO AUTOMATIC TERMINATION

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Responsible

Official	Step	Action	Keywords
	5.	If a lease with an effective date prior to the enactment of PL 83-555 (July 29, 1954) is reported by the MMS as terminated but the lease has not been made subject to the automatic termination provision, the lease has not automatically terminated. Issue a decision indicating that the lease is in default of the lease terms for failure to pay all or part of the annual rental and will be cancelled unless the rental is paid within 30 days of receipt of the decision (see Illustration 15). Send a copy of the decision to the MMS-DMD.	LEASES ISSUED PRIOR TO PL 83-555 NOT SUBJECT TO AUTOMATIC TERMINATION
	5a.	<u>OPTIONAL</u> : Prepare a notice and affix it to the case file for each 1930 Act right-of-way lease (see Illustration 16) and for each pre-July 29, 1954, lease (see Illustration 17) specifying that they are not subject to automatic termination.	
	6.	If a lease has a rental due on a date other than the anniversary date, the lease does not automatically terminate for failure to pay the rental timely. (See <u>Andrew HeLal</u> , 122 IBLA 325 (1992), and Handbook 3103-1 for rentals due upon the lifting of a lease suspension.)	
	7	For leases committed to a unit agreement for which there is a unit well capable of production, all the leases committed to the unit receive the benefits of the unit well, including leases in the unit that do not have a well, and the leases are extended beyond their primary term for as long as they are committed to the unit plan. Such leases do not automatically terminate for failure to pay rental timely, if they are subject to the payment of rental. (See Handbook 3105-1, Appendix 4.)	UNITIZED LEASES NOT SUBJECT TO AUTOMATIC TERMINATION

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Responsible

Official	Step	Action	Keywords
	8.	<p>If a lease is entitled to an extension but the lessee has not been notified of the extension, the lease does not automatically terminate for failure to pay the rental if the rental became due during the time that the BLM failed to give notice of the lease extension (or the rental became due so near the time that the extension notice was issued that there was inadequate time to pay timely). (See <u>American Resources Management Corp.</u>, 36 IBLA 157 (1978).) Failure to timely notify the lessee of the extension in relation to rental due date is most likely to occur when leases either are segregated due to unit approval or are eliminated from unit agreements, and the BLM is slow to recognize the lease extension or this action occurs just when rental is due.</p>	LEASES EXTENDED DUE TO UNIT APPROVAL OR ELIMINATION FROM UNIT - LEASES REVERTING TO RENTAL STATUS NOT SUBJECT TO TERMINATION WITHOUT NOTICE
	8a.	<p>Notify the lessee in the decision issued concerning the lease extension that the rental is past due or is due in the near future. Specify in the decision that if the lessee does not pay the rental within 30 days of receipt of the decision, the lease will terminate effective the lease anniversary date. (See Handbook 3105-1, Sections IV.C and V.C, and Appendix 4; Solicitor's Opinion M-36629, "Automatic Termination of Unitized Leases for Failure to Pay Rentals," 69 I.D. 110 (1962); and <u>Husky Oil Co.</u>, 79 I.D. 17 (1972).)</p>	
	8b.	<p>Indicate in the decision that the rental due is to be paid to the MMS, Royalty Management Program, P.O. Box 5640, Denver, CO 80217. Send a copy of the decision to the MMS-DMD.</p>	

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Responsible

Official	Step	Action	Keywords
	9.	Leases subject to the Yates decision do not automatically terminate. Even if the first production in the unit does not qualify as a well capable of producing unitized substances in paying quantities, a well capable of production in paying quantities on a lease basis that is completed on a committed lease within the unit agreement will extend the term of all Federal leases committed to the unit agreement for the term of the agreement and/or for so long as the well is capable of production in paying quantities. (See <u>Yates Petroleum Corp. et al.</u> , 67 IBLA 246 (1982).)	LEASES SUBJECT TO YATES DECISION NOT SUBJECT TO AUTOMATIC TERMINATION

For leases that fail to pay rental that are included in the categories addressed in Steps II.D.6 to II.D.9, above, issue a decision indicating that the lease is in default of the lease terms and will be cancelled unless the rental is paid within 30 days of receipt of the decision (see Illustration 18 and the appropriate illustrations in Handbook 3105-1). Send a copy of the decision to the MMS-DMD.

When the MMS reports the termination of a lease of the type identified in Steps II.D.4 through II.D.9, above, even if the rental was paid late, the lease does not terminate. If the lessee has been notified that the lease terminated because of the late payment, issue a decision vacating the termination notice (see Illustration 19 for a lease lease issued prior to PL 83-555 and Illustration 20 for other types of leases).

- 11a. Notify the MMS that the lease did not terminate, and if the lease is in a nonterminable status, notify the MMS-DMD to change its records to show that the lease is in a nonterminable status rather than a terminable status.

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Responsible

Official	Step	Action	Keywords
		Check the lease case file and/or ALMRS Case Recordation/Records System Release 1.0 for evidence that the lease is in production or has a well capable of production, or that a suspension of operations and production has been granted. If the case file contains no evidence, check with the Field Office fluid mineral operations personnel for any recent actions not yet reported to the SO Adjudication.	CHECK LEASE FOR PRODUCTION OR WELL CAPABLE OF PRODUCTION, OR SUSPENSION OF OPERATIONS AND PRODUCTION
	12a.	If the Field Office fluid mineral operations personnel cannot respond quickly, do not delay sending the termination notice to the lessee. If the lease has a well capable of production or actual production, or a suspension of operations and production has been granted, the receipt of the termination notice will cause the lessee to respond with actual lease status information. And, if the lease is not in a producible or suspended status, there is no need to delay the process if the lessee wants to reinstate the lease.	
		If the 6th or 11th year rental, for a competitive or a noncompetitive lease, respectively, is not paid, the lease automatically terminates, even though diligent drilling operations occurred over the lease expiration date to qualify for a 2-year lease extension.	CHECK FOR FAILURE TO PAY 6TH OR 11TH YEAR RENTAL

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Responsible Official	Step	Action	Keywords
	14.	Check the lease case file and/or ALMRS Case Recordation/Records System Release 1.0 for evidence of production attributable to the lease through a communitization or unit agreement. Check with the Field Office fluid mineral operations personnel, if necessary. If there is production from any communitization agreement to which the lease is committed, or if production has been established in a unit to which a lease is committed, the lease does not terminate for failure to pay rental, and the lease account is to be transferred from terminable (nonproducing) to nonterminable (producing) status. (See Handbook 3107-1, Section II.)	CHECK FOR PRODUCTION THROUGH UNIT/ COMMUNITIZATION AGREEMENT
	15.	Prepare Notice of Oil and Gas Lease Terminated on applicable standard BLM form identified below, and send it to each lease record title holder by certified mail, return receipt requested.	ISSUE TERMINATION NOTICE
	15a.	A termination notice may be prepared identifying several leases, if the anniversary date and the lessees are the same.	
	16.	Use Form 3108-2b (February 1989) if if the envelope is postmarked on or before the lease anniversary date and it was not received by the MMS until after the anniversary date, but not later than 20 days after that date, or if the proper payment message is received at the local ACH on or before the anniversary date but was credited to the MMS account at the Mellon Bank after the anniversary date, but not later than 20 days after that date (receipt of the proper payment message at the local ACH is the equivalent of the postmark). (See also Section II.A, above, concerning when the local ACH and Mellon Bank make errors.) (See Illustration 21 for Form 3108-2b.)	FORM 3108-2b

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible

Official	Step	Action	Keywords
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Use Form 3108-2b only for Class I reinstatements when the provisions for reasonable diligence, as stated in the regulations at 43 CFR 3108.2-2(a)(2), are met. The date of the postmark is a criterion for meeting the reasonable diligence standard for a Class I lease reinstatement. Late rental payments bearing a postmark on or before the first business day after the anniversary date meet the reasonable diligence standard for a Class I reinstatement.

17. Use Form 3108-2 (November 1990) when the envelope is postmarked on or before the lease anniversary date or the proper payment message is received at the local ACH after the anniversary date, and payment is received at the MMS or is credited to the MMS account at the Mellon Bank within 20 days after the anniversary date (receipt of the proper payment message at the local ACH is the equivalent of the postmark). (See also Section II.A, above, concerning when the local ACH and Mellon Bank make errors.) In these cases, the lease may be eligible for a Class I reinstatement. (See Illustration 22 for Form 3108-2.)

FORM 3108-2

Check the additional stringent requirements that must be met for a lease to be eligible for a Class I reinstatement in Section III, below.

18. Use Form 3108-2a (November 1990) when no payment is made, or the payment is received at the MMS or the Mellon Bank more than 20 days after the anniversary date. (See Illustration 23 for Form 3108-2a.)

FORM 3108-2a

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Responsible

Official	Step	Action	Keywords
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NOTE: Although the BLM Forms 3108-2 and 3108-2a do not include the Class II amendment format required to increase the lease rental and royalty rate (see Section III.G, below), the amendment format may be sent at the same time as the lease termination notice is sent if this method is considered a more efficient procedure. This procedure is at the discretion of each office.

- | | | |
|-----|--|---|
| 19. | <u>OPTIONAL:</u> As the termination notice is prepared, mark the outside of the lease case file that the lease is terminated and the termination effective date. If the lease is later determined not to have terminated, or the lease is reinstated, this termination notation must be changed accordingly. | MARK LEASE CASE
FILE TERMINATED
WHEN TERMINATION
NOTICE IS
PREPARED |
|-----|--|---|

- | | | |
|-------------|--|-----------------------|
| ALMRS Entry | 20. Enter Action Date (MANDATORY ACTION CODE): Date lease terminated; DE 1775 Action Code 790/DE 2910 Action Code 244; Action Remarks: Optional. | AUTOMATED
NOTATION |
|-------------|--|-----------------------|

NOTE: Remove DE 1775/2910 Action Code 763.

Enter Action Date (MANDATORY ACTION CODE): Date termination notice issued; DE 1775/2910 Action Code 791; Action Remarks: Optional.	AUTOMATED NOTATION
--	-----------------------

NOTE: Enter this action code after entry of DE 1775 Action Code 790/DE 2910 Action Code 244.

- | | |
|--|--|
| 22. Enter Action Date: Future action suspense deadline date to track end of 60-day reinstatement petition period; DE 1775/2910 Action Code 247; Action Remarks: Petition due date. | FUTURE ACTION
SUSPENSE -
PETITION DUE DATE |
|--|--|

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Responsible

Official	Step	Action	Keywords
		<p>If lease did not terminate - Enter Action Date (MANDATORY ACTION CODE): Date termination notice was vacated; DE 1775/2910 Action Code 792; Action Remarks: Reason lease did not terminate (optional).</p>	<p>AUTOMATED NOTATION</p>
	23a.	Remove DE 1775 Action Code 790/DE 2910 Action Code 244 to return the case to the authorized case status, and restore DE 1775/2910 Action Code 763.	
Adjudication	24.	<p>During the running of the 60-day petition period, contact the Field Office fluid mineral operations staff and/or the appropriate SMA for the stipulations and consent to lease to initiate re-leasing of the lands in the terminated leases. This step, however, may begin after the 60-day petition period ends.</p> <p>If a reinstatement petition is received, process the reinstatement using the requirements in Section III, below.</p>	<p>RE-LEASE LANDS IN TERMINATED LEASES</p>
	26.	Prepare a list of terminated leases for distribution to the Field Office fluid mineral operations staff (see Illustration 24), and a report to each SMA (see Illustration 25).	
	26a.	<p>The MMS is not to be re-notified regarding a lease termination. That is, an accounting advice is not to be prepared.</p>	

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Responsible Official	Step	Action	Keywords
	27.	When the expiration, termination, relinquishment, or cancellation of a lease is final, the lands included in the lease are to be reoffered only by competitive leasing. (See Handbook 3120-1). Reoffering the lands for competitive leasing immediately is not mandatory. A presale offer or an expression of interest filed on such lands, however, is to be acted upon timely.	
ALMRS Entry	28.	<u>OPTIONAL</u> : Enter Action Date: Date pending competitive leasing; DE 1775/2910 Action Code 202; Action Remarks: Optional.	AUTOMATED NOTATION
	29.	Enter Action Date (MANDATORY ACTION CODE): Date terminated lease case file closed; DE 1775/2910 Action Code 970.	AUTOMATED NOTATION
Title Records	30.	Update oil and gas plat and other appropriate records to indicate that the lease terminated. Forward to Docket.	RECORDS NOTATION
Docket	31.	File case file with closed files pending competitive listing.	

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KeywordsE. Effect of Bankruptcy on Terminations

Under the Federal bankruptcy laws, Federal oil and gas leases are considered executory contracts in which performance has to be undertaken and carried through to completion. The bankruptcy provisions specify that no proceeding, lawsuit, or action may be taken to pursue a claim that accrued before the bankruptcy petition was filed, and no preexisting judgments are enforceable. Furthermore, no actions may be taken against the property of the debtor's bankruptcy estate, i.e., assets in existence at the time of filing of a petition in bankruptcy court. Important exceptions to the automatic stay provisions are: (1) No effect occurs on the commencement or continuation of an action or proceeding by a governmental unit to enforce police or regulatory power; and (2) nor will the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit be stayed.

LEASE
TERMINATION
OF BANKRUPT
DEBTOR

Since leases are considered executory contracts, rentals and other required actions are continuing obligations. If a debtor accepts or continues the contract, the BLM shall require continuation of proper performance of the contract terms. Automatic termination for failure to pay rentals is not stayed (In re: Trigg, 630 F2d 1370 10th Cir., 1980). The bankruptcy court may, however, stay actions that are not automatically stayed, e.g., lease terminations. A court order by the bankruptcy judge would be required to prevent or stay a lease termination.

Upon notification of bankruptcy proceedings, promptly notify the MMS Bankruptcy Coordinator and the Department of the Interior Regional or Field Solicitor's Office.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

III. ReinstatementsKeywordsA. Introduction (Class I and II)

Section 31 of the MLA of February 25, 1920 (30 U.S.C. 188) was amended by PL 83-555 on July 29, 1954, to provide for automatic termination of an oil and gas lease on which there is no well capable of producing oil and gas in paying quantities upon failure of the lessee to pay the rental due on or before the anniversary date of the lease. The Secretary, however, still had no authority to reinstate a lease that had terminated by operation of the law.

LEASE
REINSTATEMENT

On May 12, 1970, the MLA was further amended by PL 91-245 giving the Secretary authority, for the first time, to prevent termination of oil and gas leases in cases where there is a nominal deficiency in the annual rental payment, and to authorize the Secretary to reinstate, under certain conditions, oil and gas leases terminated by operation of law for failure to pay rental timely. Nominal deficiency at that time was considered as being not more than \$10 or 5 percent of the total payment due, whichever was more.

The nominal deficiency provision was increased by regulation on August 22, 1983. A rental deficiency is now considered nominal if the annual rental paid is not more than \$100 or not more than 5 percent of the total payment due, whichever is less.

Prior to January 12, 1983, the Secretary's authority to reinstate an oil and gas lease that had terminated for failure to timely pay the annual rental was limited. Prior to that date, a lease could only be reinstated when the rental was paid within 20 days of the termination date, and upon proof that such failure was either (1) justifiable, or (2) not due to a lack of reasonable diligence, and a petition for reinstatement was timely filed (now identified as a Class I reinstatement).

The Secretary's authority to reinstate a lease was further broadened by Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), PL 97-451. Effective January 12, 1983, the FOGRMA amended Section 31 of the MLA giving a lessee a third reason for late rental payment, based on "inadvertence," thereby allowing an oil and gas lease to be reinstated under what is identified as a Class II reinstatement.

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Keywords

A lease also may be reinstated under the Class II provisions if the annual rental is received after 20 days from the anniversary date. The lessee must timely file a petition, furnish rental and/or royalty from the date of the termination at an increased rate, and agree to new lease terms increasing the rental and royalty rates. (See Appendix 2 for the Committee Resolution of the House of Representatives Committee on Interior and Insular Affairs that provides the Congressional background for lease reinstatements under PL-451.)

The provisions allowed by Title IV of FOGDMA were further amended by PL 101-567 enacted November 15, 1990, to allow Section 14 renewal leases to be reinstated under the Class II procedures. Previously, this type of lease could be reinstated under the Class I procedures but not under the Class II procedures. The reinstatement procedures are the same for Section 14 renewal leases as all other leases, except that under the Class II reinstatement procedures a Section 14 renewal lease is granted a term of 20 years and so long thereafter as oil or gas is produced in paying quantities, beginning with the effective date of the reinstatement.

CLASS II
REINSTATEMENT
OF SECTION 14
LEASES

Leases issued under Section 17 of the MLA were not affected by the PL 101-567 amendment to the MLA. These leases have always been subject to the Class I and Class II reinstatement procedures. However, Congress has not addressed Section 18, 18a, 19 and 20 renewal leases as to their eligibility for a Class II reinstatement. Although Congress made these leases subject to reinstatement under the Class I procedures like all other leases, it has not specifically addressed the issue of Class II reinstatement for these types of leases. Very few of these leases continue to exist. However, in the event a petition for a Class II reinstatement is received for any such lease, a Solicitor's Opinion would need to be obtained to help determine whether such a lease is subject to reinstatement under the Class II procedures.

Appendix 3 provides a reference list of IBLA decisions addressing terminations, reasonable diligence, lack of reasonable diligence, acceptable and unacceptable justification for failure to pay rental timely, and other requirements for Class I and Class II reinstatements. (See also Appendix 1 for a BLM Montana State Office decision that discusses in depth the reinstatement criteria in relation to a nonroutine case (untimely filed partial relinquishment resulting in a lease termination.)

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KeywordsB. Petition for Reinstatement

The lessee (record title holder) must timely file a petition for reinstatement to the proper BLM office, within 60 days of receipt of a termination notice. A petition for reinstatement from an assignee is not acceptable. (See Howard H. Vinson, 90 IBLA 280 (1986) and Stanley I. Okun, Alan L. Schwartzberg, 94 IBLA 197 (1986).)

REINSTATEMENT
PETITION RECEIPT
WITHIN 60 DAYS

The petition for reinstatement must apply to all of the lands embraced in the lease at the time it terminated (see Appendix 1). That is, the lessee cannot petition for reinstatement of only a portion of the lands that were in the lease.

Note that when Form 3108-2 is used, the filing of a Class I petition does not stop the running of the 60 days from receipt of the termination notice to file a Class II petition. Likewise, when Form 3108-2 is used, lessees may file a petition under both the Class I and Class II provisions. If a lessee petitions under both provisions, first determine if the lessee qualifies for reinstatement of the lease under the Class I provisions (see 43 CFR 3108.2-2 and Section III.D, below). If the lease cannot be reinstated under the Class I provisions, the petition can next be considered under the Class II provisions (see 43 CFR 3108.2-3 and Section III.F, below).

PETITION FILED
FOR BOTH CLASS
I AND II LEASE
REINSTATEMENT

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KeywordsC. Approving Reinstatements

There is no requirement that a lease be reinstated, except under the postmark rule provision as discussed in Section III.D, below. The authorized officer shall use discretion in making the required findings based on all available facts. Note that a proper exercise of discretion is to deny lease reinstatement to any lessee who has failed or refused to comply with the reclamation requirements of Section 17(g) of the MLA (Section 5102(g) of the Federal Onshore Oil and Gas Leasing Reform Act of 1987) when the lessee is currently indicated as a violator on the list that is maintained and issued by a BLM directive. Also, the discretion of the authorized officer shall be exercised to not reinstate any lease that is located on lands within BLM wilderness study areas or other categories of lands recommended for wilderness allocation, as identified in 43 CFR 3100.0-3(a)(2) and (b)(2), that are now prohibited from being leased.

REINSTATEMENT
APPROVAL
DISCRETIONARY

REINSTATEMENT
DENIAL FOR LEASES
IN WILDERNESS
STUDY AREAS

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Keywords

D. Qualifications for Class I Reinstatement

1. A lease may be reinstated under the Class I procedures when the following criteria are met. First, the annual rental due must have been paid to the correct office (MMS, Royalty Management Program, Box 5640, Denver, Colorado 80217) within 20 days after the anniversary date of the lease, and it is shown to the satisfaction of the authorized officer that failure to pay timely was either justifiable or not due to lack of reasonable diligence.

CLASS I
REINSTATEMENT
REQUIREMENTS

Justifiable means that the delay in submission of the rental was caused by sufficiently extenuating circumstances or factors beyond the control of the lessee that occurred at or near the lease anniversary date that prevented the lessee from paying the rental on time (see Appendix 3 for examples). Late payment is not justified by illness or or other reasons, unless a lessee can demonstrate that the reasons were causative factors for delay in immediate proximity to the lease anniversary date.

JUSTIFIABLE
CAUSE

Reasonable diligence normally requires sending the rental payment sufficiently in advance of the due date to account for normal delays in the collection, transmittal, and delivery of the payment to the proper office. Delays due to errors in handling and processing the rental payment by the U.S. Postal Service is not evidence of extenuating circumstances that will justify the untimely rental payment except in unusual circumstances where the U.S. Postal Service provides an explanation and admits fault causing the delay (see Appendix 3). In unusual circumstances, private courier services also may admit fault in the processing and delivery of rental payments. Reasonable diligence, however, includes the postmark rule provision in the regulations at 43 CFR 3108.2-2(a)(2):

REASONABLE
DILIGENCE

Reasonable diligence shall include a rental payment that is postmarked by the U.S. Postal Service, common carrier, or their equivalent (not including private postal meters) on or before the lease anniversary date or, if the designated Service office is closed on the anniversary date, postmarked on the next day the Service office is open to the public.

POSTMARK RULE
PROVISION

When the lessee has qualified under this postmark rule, the procedures for handling a Class I reinstatement are incorporated into Form 3108-2b (see Illustration 21). (For examples of postmarks by the U.S. Postal Service, see Appendix 4.)

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Keywords

2. The petition for reinstatement must be filed within 60 days after receipt of the termination notice, along with a nonrefundable filing fee of \$25 for each lease and any required rental, including any rental at the rate specified in the lease terms that has accrued from the date of termination of the lease.

CLASS I
PETITION AND
FILING FEE

3. The oil and gas interests of the United States in the lands have not been disposed of or otherwise become unavailable for leasing.

4. A new oil and gas lease has not been issued for any of the lands affected by the terminated lease. However, the lands from a terminated lease can be processed in preparation for lease issuance, but a new lease cannot actually be issued until expiration of 90 days from the termination date of the old lease (see 43 CFR 3108.2-2(d) and 43 CFR 3110.7(b)).

NEW LEASE CANNOT
BE ISSUED WITHIN
90 DAYS FROM DATE
OF TERMINATION
OF PRIOR LEASE

NOTE: If the lands have been posted for re-leasing when a petition for reinstatement is filed, the lands must be withdrawn from competitive leasing until final disposition of the petition for reinstatement.

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E. Class I Reinstatement Procedures

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
ALMRS Entry	1.	Enter Action Date (MANDATORY ACTION CODE): Date reinstatement petition is filed; DE 1775 Action Code 772/DE 2910 Action Code 284; Action Remarks: Class I.	AUTOMATED NOTATION
	1a.	Remove DE 1775 Action Code 790/DE 2910 Action Code 244 (and DE 1775/2910 Action Code 970, if entered) to prevent an invalid action sequence.	
		<p><u>NOTE:</u> See Appendix 5 for a list of the applicable action codes that are to be used in ALMRS Case Recordation and Record System Release 1.0.)</p>	
Adjudication	2.	If the Class I conditions for reinstatement are met (i.e., other than postmark rule for which Form 3108-2b is used), send a decision by certified mail, return receipt requested, reinstating the lease with the original lease terms and conditions, effective on the date of lease termination (see Illustration 26).	CLASS I REINSTATEMENT PROCESSING
	2a.	If the lessee is claiming that an illness or injury caused the failure to pay the rental timely, do not reinstate the lease until this claim is substantiated. If the substantiation does not accompany the petition, require it separately by decision.	
	2b.	The substantiation must be a statement by the lessee's physician that answers the following questions:	
		(1) What is the nature of the lessee's illness or injury?	

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Responsible

Official	Step	Action	Keywords
		(2) Was the lessee incapacitated by this illness or injury to the extent that he/she could not reasonably be expected to attend to normal business matters?	
		(3) What was the beginning date of the lessee's incapacitation?	
		(4) What date did the lessee's incapacitation end, if it has ended?	
	3.	Determine if the Class I reinstated lease may warrant an extension (see Section III.J, below).	
	4.	Prepare accounting advice to the MMS-DMD to apply the rental (see Illustration 27).	ACCOUNTING ADVICE - REINSTATEMENT
	5.	If the lease was on a termination list, indicate on the next such list sent to Field Office fluid mineral operations staff and to the SMA that the lease has been reinstated (see Illustrations 24 and 25).	ADVISE SMA AND FIELD OFFICE OPERATIONS OF REINSTATEMENT
	5a.	<u>OPTIONAL</u> : In lieu of identifying the Field Office fluid mineral operations staff and the SMA using Illustrations 24 and 25, notify them by sending a copy of the reinstatement decision.	
ALMRS Entry	6.	Enter Action Date (MANDATORY ACTION CODE): Effective date of reinstatement; DE 1775 Action Code 773/DE 2910 Action Code 282; Action Remarks: Class I.	AUTOMATED NOTATION
	6a.	Restore DE 1775/2910 Action Code 763 to indicate lease expiration date.	
	7.	Send case file to Title Records through Docket.	

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Responsible Official	Step	Action	Keywords
Title Records	8.	Update all appropriate records to indicate that lease is reinstated.	RECORDS NOTATION
Docket	9.	File case file with active cases.	
Adjudication	10.	If the Class I reinstatement conditions are not met, deny the petition by decision with the right of appeal (see Illustration 28 and Appendix 3).	CLASS I PETITION DENIED
	10a.	If an appeal is not filed, or an appeal is filed and IBLA upholds the decision denying the reinstatement, or a Class II petition is not received, resume processing the lands for competitive leasing.	
		If the rental was paid to the MMS, prepare an accounting advise authorizing the MMS-DMD to refund the rental (see Illustration 29). If the rental was submitted to the BLM with the petition for reinstatement, complete the accounting advice authorizing the BLM to refund the rental (see Illustration 30).	ACCOUNTING ADVICE - RENTAL REFUND
ALMRS Entry	12.	Update case to indicate Class I reinstatement was denied using current data standards.	AUTOMATED NOTATION
	12a.	Enter Action Date (MANDATORY ACTION CODE): Date reinstatement petition denied; DE 1775 Action Code 774/DE 2910 Action Code 283; Action Remarks: Enter reason (optional).	
	12b.	<u>OPTIONAL</u> : Enter Action Date: Date pending competitive leasing; DE 1775/2910 Action Code 202; Action Remarks: Optional.	
	12c.	If not done previously, route to Title Records through Docket for appropriate records notation changes.	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible Official	Step	Action	Keywords
Title Records	13.	Update oil and gas plat and other appropriate records that lease terminated and that lands are available for re-leasing.	RECORDS NOTATION
Docket	14.	File case file with closed files pending competitive leasing.	
Adjudication	15.	Continue to process the lands for re-leasing through the competitive process.	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsF. Qualifications for Class II Reinstatement

1. A lease may be reinstated under the Class II procedures when the following criteria are met. First, the annual rental is paid to the MMS either before or after 20 days from the anniversary date (or to the BLM with a petition for reinstatement) and the reason for the late payment is inadvertence (see Appendix 3), or the rental is not paid within 20 days after the lease anniversary date, and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence.

CLASS II
REINSTATEMENT
REQUIREMENTS

NOTE: "Inadvertence" is viewed by the BLM to include failure to pay due to carelessness, negligence, an unintentional or accidental oversight, inattention, a mistake, a financial inability to pay timely, or any other reason. Although the IBLA ruled that being financially unable to pay the rental due is not considered inadvertent and is, therefore, not grounds for Class II reinstatement (see Dena F. Collins, 86 IBLA 32 (1985)), the BLM policy is that if a lessee does later secure the financial ability and timely files a petition for reinstatement, the petition is to be processed.

INADVERTENCE AS
REASON FOR LEASE
TERMINATION

2. A new oil and gas lease has not been issued for any of the lands affected by the terminated lease, and the oil and gas interests of the United States in the lands have not been disposed of or otherwise become unavailable for leasing. The lands from a terminated lease can be processed in preparation for lease issuance, however, a new lease cannot actually be issued until expiration of 90 days from the termination date of the old lease (see 43 CFR 3108.2-2(d) and 43 CFR 3110.7(b)).

NEW LEASE CANNOT
BE ISSUED WITHIN
90 DAYS FROM DATE
OF TERMINATION
OF PRIOR LEASE

NOTE: If the lands have been posted for re-leasing when a petition for reinstatement is filed, the lands must be withdrawn from competitive leasing until final disposition of the petition for reinstatement.

3. The petition for reinstatement is filed within 60 days after receipt of the termination notice. If a termination notice was not served by the BLM on the lessee, the petition must be filed within 15 months from the date of lease termination.

CLASS II
PETITION FOR
REINSTATEMENT

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Keywords

4. All required rental, including all back rental and/or royalty that has accrued from the date of lease termination, at the following increased rates:

INCREASED
RENTAL AND
ROYALTY RATES

4a. Noncompetitive Leases: Back rental accruing from date of termination and annual rental thereafter payable at the rate of \$5 per acre or fraction thereof per year and/or royalty payable at the rate of 16% percent. For each succeeding time that a lease originally issued noncompetitively is reinstated, the annual rental shall increase an additional \$5 per acre or fraction thereof (see 43 CFR 3103.2-2(f)), and the royalty shall increase an additional 2 percentage points (see 43 CFR 3103.3-1(a)(2)).

NONCOMPETITIVE
INCREASED RENTAL
AND ROYALTY RATES

4b. Competitive Leases: Back rental at the rate of \$10 per acre or fraction thereof per year, and royalty payable at a rate of not less than 16% percent (computed on a sliding scale when applicable), but not less than 4 percentage points greater than the competitive royalty rate schedule attached to the lease for leases issued prior to December 22, 1987, and 16% percent for leases issued on or after December 22, 1987. For each succeeding time that a lease originally issued competitively is reinstated the rental shall increase an additional \$10 per acre or fraction thereof (see 43 CFR 3103.2-2(f)), and the royalty shall increase an additional 2 percentage points (see 3103.3-1(a)(3)).

COMPETITIVE
INCREASED RENTAL
AND ROYALTY RATES

5. The back rental and/or royalty at the increased rates must be paid within 60 days of receipt of the termination notice, but the regulation 43 CFR 3108.2-3(b)(1) does not require that the payment accompany the reinstatement petition (see R. Gerald Jones, 101 IBLA 57 (1988)). In addition, if there is a delay of one year or more in reinstating the lease, the lease shall be reinstated only on the condition that the lessee also must pay the rental and/or royalty at the increased rates for the period of time that has elapsed since the payment of back rental and/or royalty that was made within the initial 60-day period.

5a. If a decision denying a petition for reinstatement is appealed, rental does not have to be paid during the pendency of the appeal before the IBLA. If the decision is overturned by the IBLA and the reinstatement may proceed, the lessee has to pay all rental at the increased rate that accrued while the appeal was pending before the IBLA prior to the reinstatement of the lease.

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Keywords

6. An administrative reinstatement fee of \$500 per lease is received.

ADMINISTRATIVE
REINSTATEMENT FEE

NOTE: The fee may be submitted separately and later than the Class II petition.

7. A \$125 deposit (amount subject to change) is received for the cost of publication in the Federal Register.

FEDERAL REGISTER
PUBLICATION COST

NOTE: This deposit may be submitted separate and later than the Class II petition. The regulations at 43 CFR 3108.2-3(b)(2)(v) and (vi) require only that the administrative fee and Federal Register publication cost be paid after the lessee has submitted the petition and the back rental and/or royalty at the higher rates, and the authorized officer has determined that the requirements for filing the petition have been timely met (see R. Gerald Jones, 101 IBLA 57 (1988)).

8. No additional filing fee is required.

9. If the above conditions are met, follow the Class II procedures in Step III.G, below.

10. If the Class II petition is filed, or the rental and/or royalty at the higher rate is submitted, after 60 days of the lessee's receipt of the termination notice (either Form 3108-2 or Form 3108-2a), deny the petition in a decision with the right of appeal since the petition and back rental and/or royalty must be received within the 60-day period as prescribed by the law (see Illustration 31).

CLASS II
PETITION
DENIED

11. When the decision denying the reinstatement is final, prepare an accounting advice to refund the following, if they were paid to the BLM: Rental paid after the termination of the lease, \$500 administrative fee, and \$125 fee for the Federal Register publication cost (see Illustration 32). If the late rental was paid to the MMS, prepare an accounting advice authorizing the MMS-DMD to make the refund (see Illustration 29).

ACCOUNTING
ADVICE -
RENTAL REFUND

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

G. Class II Reinstatement Procedures

Responsible Official	Step	Action	Keywords
ALMRS Entry	1.	Enter Action Date (MANDATORY ACTION CODE): Date reinstatement petition is filed; DE 1775 Action Code 772/DE 2910 Action Code 284; Action Remarks: Class II.	AUTOMATED NOTATION
	1a.	Remove DE 1775 Action Code 790/DE 2910 Action Code 244 (and DE 1775/2910 Action Code 970, if entered) to prevent an invalid action sequence.	
		<u>NOTE:</u> See Appendix 5 for a list of the applicable action codes.	
Adjudication	2.	Prepare an appropriate notice if all of the required items were not furnished with the petition for reinstatement. Attach the appropriate lease amendment to the notice if the lease amendment had not been sent previously with the termination notice.	CLASS II REINSTATEMENT PROCESSING
	2a.	If a lease amendment had been sent out with the termination notice but was not returned with the reinstatement petition, prepare a notice requiring that it be furnished now (see Illustration 33). Attach another copy of the appropriate lease amendment to the notice (see Illustration 34 for a Section 17 noncompetitive lease and post-12/22/87 competitive lease amendment, and Illustration 35 for a pre-12/22/87 Section 17 competitive lease amendment).	AMENDMENT TO LEASE TERMS

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible

Official	Step	Action	Keywords
	2b.	If the lease is a Section 14 renewal lease with a 12½ percent royalty rate, use Illustration 36 for the lease amendment to be attached to the notice. Most Section 14 renewal leases now have a royalty rate of 12½ percent, and those that do not have this rate now will have this rate the next time they are renewed.	SECTION 14 LEASE REINSTATEMENT
	2c.	However, if a Section 14 renewal lease with a royalty rate higher than 12½ percent is reinstated under the Class II procedures, change the royalty rate in the lease amendment in Illustration 36 to, "Royalty rate of 16% percent, or such royalty rate greater than 16% percent as originally specified in the royalty schedule included in the terms of the lease." But, if a previously reinstated Section 14 lease is renewed (for a final time under PL 101-567), the royalty rate for the "new lease" would revert to the 12½ percent rate when the renewal lease is issued for its last time.	
	2d.	If the \$500 administrative fee and the \$125 <u>Federal Register</u> publication cost have not yet been paid, in addition to the lease amendment not having been furnished with the reinstatement petition, require these charges to be paid in the notice issued that requires the lessee to furnish the lease amendment (see Illustration 37).	
	3.	When the reinstatement petition is perfected, prepare the proposed reinstatement notice for the <u>Federal Register</u> (see Illustration 38). Ensure first that the payments made are collectible.	FEDERAL REGISTER PUBLICATION NOTICE PREPARED

*Reinstatement
charges*

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible

Official	Step	Action	Keywords
	4.	Mail the <u>Federal Register</u> notice (three originally signed copies) without a cover letter, to the Office of the Federal Register, National Archives and Records Administration (NARA), Washington, D.C. 20408. Also prepare Form 1310-5 (Document Face Sheet) to allow the BLM State Office to pay the Office of the Federal Register for the publication cost of the notice.	TRANSMIT <u>FEDERAL REGISTER</u> NOTICE FOR PUBLICATION
ALMRS Entry	5.	Enter action date: Notice published in the <u>Federal Register</u> ; DE 1775 Action Code 240/DE 2910 Action Code 610; Action Remarks: <u>Federal Register</u> citation.	AUTOMATED NOTATION
Adjudication	6.	Send copies of the <u>Federal Register</u> notice, lessee's petition for reinstatement, additional requirements notice, lessee's response to the notice, and any other pertinent information concerning rental, royalty, and volume of production (if any is available in the case file) to: The Chairman of the Senate Committee on Energy and Natural Resources (see Illustration 39); <u>AND</u> 6b. The Chairman of the House of Representatives Committee on Resources (see Illustration 40). 7. Determine if the Class II reinstated lease warrants a lease extension (see Section III.J, below).	NOTICE TO SENATE AND HOUSE OF REPRESENTATIVES COMMITTEES

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible

Official	Step	Action	Keywords
	8.	If no objections are received and the 30-day period after publication in the <u>Federal Register</u> and notification to the House and Senate Committees has expired, issue a decision to the lessee reinstating the lease (see Illustration 41). A copy of the decision is not required to be sent to the MMS.	REINSTATEMENT OF LEASE
	9.	If the lease was on a termination list, indicate on the next such list sent to Field Office fluid mineral operations staff and to the SMA that the lease has been reinstated (see Illustrations 24 and 25).	ADVISE SMA AND FIELD OFFICE OPERATIONS OF REINSTATEMENT
	9a.	<u>OPTIONAL</u> : In lieu of identifying the Field Office fluid mineral operations staff and the SMA using Illustrations 24 and 25, notify them by sending a copy of the reinstatement decision.	
	10.	Prepare the accounting advices to earn the rental (see Illustration 42) and charges. Forward to Accounts/MMS-DMD.	ACCOUNTING ADVICE - CLASS II REINSTATEMENT
Cashier	11.	Process the accounting advices as follows: The \$500 administrative <i>changed</i> reinstatement fee and \$125 <u>Federal Register</u> publication cost are to be deposited directly into the MLR Appropriation 14X5017 Account, subactivity 5700, immediately after the check for the payment has cleared the bank (see Illustration 43). Forward accounting advice for rental to the MMS-DMD for action to reinstate the lease in its automated system.	EARN FEE AND PUBLICATION COST UPON LEASE REINSTATEMENT

If Federal Register Notice includes more than 1 lease, we only need to collect 1 publication fee & split it among the leases

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible Official	Step	Action	Keywords
ALMRS Entry	12.	Update the case in the ALMRS automated system using the current data standards: Enter Action Date (MANDATORY ACTION CODE): Date reinstatement approved; DE 1775 Action Code 773/DE 2910 Action Code 282; Action Remarks: Class II; new rental rate. 12b. Enter Action Date (MANDATORY ACTION CODE): Lease expiration date; DE 1775/2910 Action Code 763. Enter Action Date (MANDATORY ACTION CODE): Effective date rental rate adjusted; DE 1775 Action Code 093/DE 2910 Action Code 315; Action Remarks: Indicate new annual rate; effective date. Enter Action Date (MANDATORY ACTION CODE): Effective date of new royalty rate; DE 1775 Action Code 103/DE 2910 Action Code 531 (or other appropriate royalty rate code); Action Remarks: Enter tie to old royalty rate placed in General Remarks; General Remarks: Old royalty rate; its effective date period from MM/DD/YY to MM/DD/YY	AUTOMATED NOTATION
Title Records	13.	Update oil and gas plat and other appropriate records to indicate that the lease has been reinstated.	RECORDS NOTATION
Docket	14.	File case file with active cases.	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

H. Class II Reinstatement Petition Withdrawal - Disbursement of Funds

Responsible Official	Step	Action	Keywords
ALMRS Entry	1.	Update the case indicating the withdrawal of a reinstatement petition using the current data standards.	AUTOMATED NOTATION
	1a.	Enter Action Date (MANDATORY ACTION DATE): Date withdrawal of reinstatement petition received; DE 1775 Action Code 775/DE 2910 Action Code 292; Action Remarks: Optional.	
	1b.	<u>OPTIONAL</u> : Enter Action Date: Date pending competitive leasing; DE 1775/2910 Action Code 202; Action Remarks: Optional.	
Adjudication	2.	If a petition is withdrawn after submission for publication of the <u>Federal Register</u> notice of proposed reinstatement, the \$500 administrative fee and <u>Federal Register</u> publication cost are earned.	PETITION WITHDRAWN AFTER PUBLICATION SUBMITTED - MONIES EARNED
	3.	If a petition is withdrawn before submission for publication of the <u>Federal Register</u> notice of proposed reinstatement, refund the \$500 administrative fee and <u>Federal Register</u> publication monies.	PETITION WITHDRAWN BEFORE PUBLICATION SUBMITTED - REFUND FEES
	4.	Send to Title Records, through Docket, for notation if the records were not previously noted as to lease termination.	
Title Records	5.	Update appropriate records to indicate lease termination.	RECORDS NOTATION
Docket	6.	File case file with closed cases, and if applicable, indicate that lands are pending competitive leasing.	
Adjudication	7.	Continue to process the lands for re-leasing.	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

I. Class II Reinstatement Petition Denied - Disbursement of Funds

Responsible

Official	Step	Action	Keywords
ALMRS Entry	1.	Update the case indicating that the reinstatement petition was denied using the current data standards.	AUTOMATED NOTATION
	1a.	Enter Action Date (MANDATORY ACTION CODE): Date reinstatement petition denied; DE 1775 Action Code 774/DE 2910 Action Code 283; Action Remarks: Enter reason.	
	1b.	<u>OPTIONAL</u> : Enter Action Date: Date pending competitive leasing; DE 1775/2910 Action Code 202; Action Remarks: Optional.	
	2.	If the petition is denied, refund the \$500 administrative fee and Federal Register publication monies.	
Title Records	3.	Send to Title Records, through Docket, for notation if the records were not previously noted as to lease termination.	PETITION DENIED - FEE REFUND
	4.	Update appropriate records to indicate lease termination and availability of lands for re-leasing.	
Docket	5.	File case file with closed files pending competitive re-leasing.	
Adjudication	6.	Continue to process the lands for re-leasing.	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsJ. Lease Extension - Class I and Class II Reinstated LeasesEXTENSION OF
TERM OF
REINSTATED LEASE

1. Class I Reinstated Lease. The lease term may be extended at the discretion of the BLM authorized officer if it is determined that, upon reinstatement of the lease, the primary term will not afford the lessee a reasonable opportunity to continue operations under the lease (see Manual Section 3108.22B). The extension is subject to the following criteria:

CLASS I
REINSTATED LEASE
EXTENSION
CRITERIA

1a. The extension shall not exceed a period equivalent to the time beginning when the lessee knew or should have known of the lease termination and ending on the date the reinstatement is granted. The beginning date shall be the date of lease termination since the lessee is responsible for knowing the lease terms and conditions and the laws and regulations governing the lease, that require automatic termination by operation of law for failure to timely pay the annual rental on or before the anniversary date.

1b. The extension shall not exceed a period equivalent to the unexpired portion of the lease or any extension thereof remaining at the date of termination. If an extension is deemed appropriate for a lease at the time it is reinstated, the extension be for no more than 2 years, the same length of time granted for all other types of lease extensions.

1c. When the reinstatement occurs after the expiration of the primary term or any extension thereof, the lease may be extended from the date the reinstatement petition is granted.

Complying with these criteria of the May 12, 1970, amendment to the MLA, a lease reinstated under the Class I provisions normally shall not receive a lease extension. This is because of several factors. The lessee is presumed to be aware of the lease termination immediately. And, as stated in legislative history, no suspension of time occurs when the lease terminates (i.e., the running of the lease term is not stopped for that period between the date of termination and reinstatement). And, the term of the reinstated lease shall depend on the date the lease was issued rather than the date the lease terminated. Further, the reinstatement petition shall be processed without delay and granted shortly after the termination, i.e., in not less than 1 year from the date of termination.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Keywords

For example, if a noncompetitive lease was issued August 1, 1985, and terminated on August 1, 1994, and is granted a Class I reinstatement in December 1994, over 7 months still remain in the primary term. In this case, the lease should not be granted an extension upon reinstatement since a reasonable time remains to continue operations, i.e., to perform diligent drilling operations to attain production in paying quantities. This 7-month period allows adequate time for an Application for Permit to Drill (APD) to be filed and approved for diligent drilling to commence; indeed, diligent drilling over the lease expiration date would qualify the lease for a 2-year drilling extension (see below, and Handbook 3107-1). If a lease terminates for failure to pay the rental timely but the lessee had filed an APD timely (at least 30 days prior to the lease expiration date) and the BLM had not taken action to approve the APD to allow drilling to commence, and the lease qualifies for a Class I reinstatement, an extension not to exceed 2 years would be appropriate when the lease reinstatement is approved. But, in the event that a lease terminates at the end of its primary term for failure to timely pay the rental while diligent drilling operations occurred over the expiration date, and the lease qualifies for a Class I reinstatement, the lease shall not be granted an additional extension due to the reinstatement because the lease earned a 2-year extension due to the diligent drilling operations over the lease expiration date. See Illustration 26 for a decision including appropriate language granting a Class I lease reinstatement with an extension. See Illustration 44 for an example of an accounting advice notifying the MMS-DMD of a Class I lease reinstatement with an extension.

REINSTATED LEASE
EXTENDED -
ACCOUNTING ADVICE
TO MMS-DMD

2. Class II Reinstated Lease. The lease term may be extended at the discretion of the BLM authorized officer if the approval of the reinstatement either: (1) occurs after the expiration of the primary term or after the expiration of any extension of the primary term; or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease. In accordance with Title IV of FOGPMA, when a Class II lease reinstatement is approved the lease may be extended for a reasonable period but in no event for more than 2 years from the date the reinstatement is granted and so long thereafter as oil or gas is produced in paying quantities.

CLASS II
REINSTATED LEASE
EXTENSION
CRITERIA

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Keywords

The legislative history of Title IV of FOGRMA provides a clarification of the Congressional intent that a lease be reinstated as of the date of termination for the unexpired portion of the lease, specifying that no suspension of time occurs when the lease terminates, i.e., the lease term is not stopped during the time elapsed between the date of termination and approval of the reinstatement. Also, the legislative history of FOGRMA indicates that the term of the reinstated lease shall depend on the date the lease was issued rather than the date the lease terminated, i.e., the reinstatement period runs from the date of issuance of the original term of the lease, in order to significantly reduce any excessively long lease term that could otherwise result. For example, if a noncompetitive lease was issued on July 1, 1986, and was terminated on July 1, 1994, for failure to pay the rental and was not reinstated until December 1994, the unexpired portion of the primary term of the lease is 1½ years, or until June 30, 1996. In this case, a lease extension is not to be granted because the lessee has reasonable time to continue operations on the lease.

If a lease terminates at the end of its primary term for failure to timely pay the annual rental while diligent drilling operations occurred over the expiration date, and the lease qualifies for a Class II reinstatement, the lease shall not be entitled to an additional extension due to the reinstatement since the lease has earned a 2-year extension due to the diligent drilling over the expiration date. However, if the lease terminates for failure to timely pay the rental but the lessee had filed an APD timely, at least 30 days prior to the lease expiration date, and the BLM had not taken action to approve the APD to allow diligent drilling to commence prior to the lease expiration, when the lease is reinstated under the Class II provisions a 2-year extension would be appropriate to allow drilling under the approved APD. See Illustration 41 for a decision granting a Class II Reinstatement with an extension. See Illustration 44 for an example of an accounting advice notifying the MMS of this type of reinstatement and lease extension.

REINSTATED LEASE
EXTENDED -
ACCOUNTING ADVICE
TO MMS-DMD

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Keywords

Change the last sentence in the third paragraph of the Federal Register Notice for the proposed Class II reinstatement in Illustration 38 to read:

CHANGE FEDERAL
REGISTER NOTICE
TO INDICATE
LEASE EXTENSION

The lease is subject to the original terms and conditions and the increased rental and royalty rates cited above, and an extension for [two] years from the date the lease is reinstated in accordance with 43 CFR 3108.2-3(e).

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
ALMRS Entry	1.	Enter Action Date (MANDATORY ACTION CODE): Effective date of lease extension; DE 1775 Action Code 258/DE 2910 Action Code 235; Action Remarks: THRU MM/DD/YY;	AUTOMATED NOTATION
	2.	Enter Action Date (MANDATORY ACTION CODE): New lease expiration date; DE 1775/2910 Action Code 763.	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsK. Petition for Reduction of Rental - Class II
Reinstated Lease

A lessee may request a reduction of rental concurrently with the petition for a Class II reinstatement, but such a request must be accompanied by a rental amount that is at least equal to the yearly rental rate of the terminated lease. Section 39 of the MLA provides the authority to reduce the rental rate whenever, in the judgment of the authorized officer, it is necessary to do so in order to promote development, or whenever the lease cannot be successfully operated under the terms provided therein. (See Manual Section 3108.23C.)

REQUEST FOR
RENTAL REDUCTION
FOR CLASS II
REINSTATED LEASE

A request for a rental reduction must be given the utmost review, and the final decision of the authorized officer to grant relief shall be thoroughly justified and documented. In no circumstances can the rental rate be reduced below the standard noncompetitive or competitive rate currently in effect.

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
Adjudication	1.	When the appropriate reduced rental rate has been determined by the authorized officer and, if additional rental is required, the lessee shall be notified by a decision sent by certified mail. If the lessee fails to pay the appropriate back rental at the rate established within 60 days of receipt of the petition notice, the lease shall not be reinstated.	ADDITIONAL RENTAL REQUIRED
	2.	Authorize the rental reduction by issuing an oil and gas lease amendment using the format of either Illustration 34 or 35, changing the annual rental rate to the appropriate reduced amount.	AMEND LEASE TERMS
ALMRS Entry	3.	Enter Action Date (MANDATORY ACTION CODE): Date rental reduction authorized; DE 1775 Action Code 093/DE 2910 Action Code 315; Action Remarks: New rental rate; effective date.	AUTOMATED NOTATION

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Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
Adjudication	4.	If the request for a rental reduction is denied, issue a decision for the denial. (See Appendix 1.) Denial of a request for a rental rate reduction at the time the lease is reinstated does not prohibit the lessee from requesting such relief at a later date.	RENTAL REDUCTION DENIED
ALMRS Entry	5.	Enter Action Date: Decision Issued; DE 1775 Action Code 718/DE 2910 Action Code 393; Action Remarks: Rental reduction denied.	AUTOMATED NOTATION

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsL. Petition for Reduction of Royalty - Class II
Reinstated Lease

A lessee may request a reduction of royalty concurrently with the petition for a Class II reinstatement. A royalty rate reduction must be justified due to hardship or to prevent premature termination of production of a producing well. Section 31(i) of the MLA (30 U.S.C. 188(i)) provides the Secretary with the discretionary authority to reduce the royalty rates on a reinstated lease. A request for a royalty rate reduction made in conjunction with a petition for a Class II reinstatement must be justified and documented. Although a royalty rate reduction and a Class II reinstatement petition can be filed at the same time, the two actions cannot be acted on concurrently. The lease must first be reinstated, with subsequent consideration given to determine if a royalty rate reduction is justified. The legislative history of Title IV of FOGPMA clearly states, however, that this authority to reduce the royalty rate for reinstated leases is not to be construed as blanket authority for royalty reductions on all reinstated leases.

ROYALTY
REDUCTION
REQUEST

Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
ALMRS Entry	1.	Enter Action Date (MANDATORY ACTION CODE): Royalty rate reduction filed; DE 1775/2910 Action Code 624; Action Remarks: Optional.	AUTOMATED NOTATION
Adjudication	2.	If any activity is indicated on the leasehold, request all pertinent data from the Field Office fluid mineral operations personnel on drilling, production, etc.	
	3.	After receipt of information from the Field Office fluid mineral operations personnel, obtain economic evaluation and/or geologist recommendations, or concurrence/nonconcurrence with the decision to reduce the royalty rate.	
	4.	If the recommendation concurs to grant a royalty rate reduction, grant the royalty reduction by issuing an oil and gas lease amendment using the format of Illustrations 34 or 35, changing the royalty rate to the appropriate reduced amount.	AMEND LEASE TERMS

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible Official	Step	Action	Keywords
ALMRS Entry	5.	Enter Action Date (MANDATORY ACTION CODE): Date royalty reduction authorized; DE 1775/2910 Action Code 625; Action Remarks: EFF MM/DD/YYYY; General Remarks: Old royalty rate and its effective date from MM/DD/YY to MM/DD/YY.	AUTOMATED NOTATION
Adjudication	6.	If the request for a royalty reduction is denied issue a decision for the denial. (See Appendix 1.) Denial of a request for a royalty rate reduction at the time of lease reinstatement does not prohibit the lessee from requesting such relief at a later date.	ROYALTY REDUCTION DENIED
ALMRS Entry	7.	Enter Action Date (MANDATORY ACTION CODE): Royalty reduction denied; DE 1775/2910 Action Code 626; Action Remarks: Enter reason (optional).	AUTOMATED NOTATION

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsM. Period of Withholding Action on Lease Issuance

No lease is to be issued within 90 days after the date of termination of a lease, nor shall any new lease be issued while a petition for reinstatement is pending, including within the 120-day judicial review waiting period after the IBLA has rendered a decision. (See 43 CFR 3108.2-3(c).)

WITHHOLD ISSUANCE
OF NEW LEASE FOR
90 DAYS FOR LANDS
IN TERMINATED
LEASE OR WHILE
REINSTATEMENT
PETITION PENDING

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsN. Introduction (Class III Reinstatements)

Section 401(f) of FOGPMA and 43 CFR 3108.2-4(a) allow for the reinstatement of an unpatented oil placer mining claim by conversion to a noncompetitive oil and gas lease under Section 17 of the MLA. The conversion is contingent upon: (1) the unpatented oil placer mining claim was validly located prior to February 24, 1920; (2) the placer claim either has been producing, is currently producing, or is capable of producing oil or gas; (3) the claim has been deemed conclusively abandoned for failure to timely file the instruments required by Section 314(b) of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1744; and (4) the filing of a Class III conversion petition within 120 days after the final notification by the BLM authorized officer or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

CLASS III
REINSTATEMENTS

The filing of the Class III conversion petition normally requires the payment of rental or royalty, but not both. The only time both rental and royalty are required when filing a conversion petition is if production commences on the oil placer claim after it has been deemed conclusively abandoned, but before it has been converted to a noncompetitive oil and gas lease. In this instance, the first year's rental and the accrued royalty up to the time of filing of the conversion petition, is to be submitted with the petition. Thereafter, monies due are based on the status of the lands involved in the conversion petition as follows: (1) If the lands are producing, only royalty is due; (2) if the lands are capable of production but are not producing, only minimum royalty is due; and (3) if the lands are nonproducing and are not capable of production, only rental is due. In cases where the oil placer claim is in production or commenced production after it was deemed conclusively abandoned, all accrued royalty monies shall be maintained in an escrow account by the petitioner until the abandoned claim is converted to a noncompetitive lease. After a lease is issued the accrued royalty are to be transferred from the escrow account to the MMS account.

RENTAL/ROYALTY
MONIES DUE
WITH PETITION

ESCROWED
ROYALTY MONIES
TRANSFERRED
TO MMS

If a valid oil and gas lease has been issued for any of the lands covered by the abandoned oil placer mining claim prior to the filing of a Class III conversion petition, the Class III petition shall be denied for that portion of the lands already included in the new lease. Such lands are no longer available for conversion to a noncompetitive lease under the Class III reinstatement provisions (see 43 CFR 3108.2-4(c)).

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KeywordsO. Requirements for Class III Reinstatement

When a petition for a Class III reinstatement is filed by the owner of the mining claim, or the authorized attorney-in-fact, review the petition to determine that the requirements have been met as follows:

CLASS III
REINSTATEMENT
REQUIREMENTS

1. The mining claim was validly located prior to February 24, 1920, and has been or is currently producing or is capable of producing oil or gas, and has been or is deemed conclusively abandoned after January 12, 1983.

2. It is shown to the satisfaction of the authorized officer that failure to timely file the required instruments or copies of instruments required by Section 314(b) of FLPMA was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner of the mining claim.

3. A Class III conversion petition is filed within the 120-day period allowed, with the required rental and/or royalty (including back rental/royalty) also filed within the 120-day period, at the rates provided for reinstated noncompetitive leases in accordance with 43 CFR 3103.2-2(d) and 3103.3-1(a)(1), respectively. Note that the back rental/royalty does not have to be submitted at the same time as the conversion petition.

CLASS III
PETITION FILED

4. A \$500 nonrefundable administrative fee is paid. A \$125 deposit (amount subject to change) also must be paid for the cost of publication in the Federal Register. However, note that these costs do not have to be submitted at the same time as the Class III conversion petition nor within the 120-day petition period.

5. An oil or gas lease has not been issued for the lands prior to the filing of a petition for a Class III reinstatement/conversion.

If the above conditions are met, follow the Class III reinstatement procedures in Section III.P, below.

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P. Class III Reinstatement Procedures

Responsible Official	Step	Action	Keywords
ALMRS Entry	1.	Enter the case into Case type 31117 and enter the actions in accordance with the current data standards.	
	1a.	Enter Action Date (MANDATORY ACTION CODE): Date application received; DE 1775 Action Code 001/DE 2910 Action Code 124; Action Remarks: Enter Abandoned Mining Claim (optional).	AUTOMATED NOTATION
	1b.	Enter Action Date (MANDATORY ACTION CODE): Date Class III reinstatement petition filed; DE 1775 Action Code 772/DE 2910 Action Code 284; Action Remarks: Number and/or name of mining claim.	
Adjudication	2.	Verify date that the mining claim was conclusively abandoned by checking the mining claim case file for the abandoned and void decision.	VERIFY ABANDONMENT
	3.	Request report from the MMS verifying the amount of back royalties due. Back royalties and/or rental must be paid, calculated from the date of conclusive abandonment, prior to any lease issuance.	MMS REPORT - BACK ROYALTIES
	3a.	The MMS will only be able to furnish an approximation of royalty monies owed, unless it has the sales volume and exact price at which the oil was sold. Therefore, request the sale volume and price information from the mining claim owner or operator and furnish it to the MMS when the verification of the back royalties is requested.	

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Responsible Official	Step	Action	Keywords
	4.	The lease shall be subject to the regulations and requirements under 43 CFR Group 3100. Therefore, check the lands for availability for leasing as for any other type of oil and gas offer. If an oil and gas lease has been issued prior to the date the Class III conversion petition was filed, the petition for conversion shall be denied.	AVAILABILITY FOR LEASING
	5.	Prepare lease on Form 3100-11 for issuance of a noncompetitive lease with the terms and conditions required in accordance with 43 CFR 3103.2-2(d) and 3103.3-1(a)(1).	PREPARE LEASE FORM
	6.	Prepare a notice requesting all additional monies due, execution of the lease forms, and any stipulations (see Illustration 45).	NOTICE REQUIRING MONIES AND LEASE FORMS TO BE SIGNED
	7.	Upon receipt of additional monies and executed lease forms, publish a Notice of Proposed Conversion in the <u>Federal Register</u> (see Illustration 46). Ensure first that the payments made are collectible.	<u>FEDERAL REGISTER</u> PUBLICATION NOTICE PREPARED
	8.	If an escrow account has been set up to collect accruing royalties from the time a petition has been filed, a noncompetitive lease may be issued without further monies due. Upon lease issuance, the lessee must have all the monies that have accrued in the escrow account transferred to the MMS lease account within 15 days of notice from the BLM that the lease has been issued.	
ALMRS Entry	9.	Enter Action date: Date <u>Federal Register</u> Notice is published; DE 1775 Action Code 240/DE 2910 Action Code 610; Action Remarks: <u>Federal Register</u> citation.	AUTOMATED NOTATION

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Responsible Official	Step	Action	Keywords
Adjudication	10.	Issue lease 30 days following the date the proposed conversion is published in the <u>Federal Register</u> . Prepare the lease for issuance with the effective date being the date the claim was conclusively abandoned.	ISSUE LEASE
	11.	Prepare accounting advice to earn monies and forward to Accounts and the MMS-DMD.	ACCOUNTING ADVICE TO MMS-DMD
	12.	Route for signing by authorized officer, ALMRS Entry, and Title Records through Docket.	
ALMRS Entry	12.	Update the case in the ALMRS automated system using the current data standards. (See Appendix 5 for a listing of the key action codes from the data standards that are to be used in ALMRS Case Recordation and Record System Release 1.0.)	AUTOMATED NOTATION
	12a.	Enter Action Date (MANDATORY ACTION CODE): Date reinstatement approved; DE 1775 Action Code 773/DE 2910 Action Code 282; Action Remarks: Class III. Enter Action Date (MANDATORY ACTION CODE): Date lease issued; DE 1775 Action Code 176/DE 2910 Action Code 237; Action Remarks: Optional.	
	12c.	Enter Action Date (MANDATORY ACTION CODE): Effective date of of lease; DE 1775 Action Code 225/DE 2910 Action Code 868; Action Remarks: Optional. Enter Action Code (MANDATORY ACTION CODE): Enter 12½ percent royalty rate; DE 1775 Action Code 102/DE 2910 Action Code 530.	

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Responsible Official	Step	Action	Keywords
	12e.	Date lease expires; DE 1775/2910 Action Code 763.	
	<p><u>NOTE:</u> If the converted claim/lease is in production (or goes into production), do not enter DE 1775/2910 Action Code 763.</p>		
Title Records	13.	Update records and forward to Docket for filing.	RECORDS NOTATION
Docket	14.	File case with active cases.	

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Q. Class III Reinstatement Petition Withdrawal - Disbursement of Funds

Responsible Official	Step	Action	Keywords
ALMRS Entry	1.	Enter Action Date (MANDATORY ACTION CODE): Date petition withdrawal received; DE 1775 Action Code 775/DE 2910 Action Code 292; Action Remarks: Optional.	AUTOMATED NOTATION
	1a.	Enter DE 1775/2910 Action Code 202 for the lands to be offered for competitive sale.	
	2.	Enter Action Date (MANDATORY ACTION CODE): Date case closed; DE 1775/2910 Action Code 970.	
Adjudication	3.	If a petition is withdrawn after submission of a proposed reinstatement ment for publication in the <u>Federal Register</u> , the \$500 administrative fee and publication costs are earned.	PETITION WITHDRAWN AFTER PUBLICATION SUBMITTED - MONIES EARNED
	3.	If a petition is withdrawn before submission of a proposed reinstatement for publication in the <u>Federal Register</u> , refund the \$500 administrative fee and publications monies in whole.	PETITION WITHDRAWN BEFORE PUBLICATION SUBMITTED - REFUND FEES

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R. Class III Reinstatement Petition Denied - Disbursement of Funds

Responsible Official	Step	Action	Keywords
ALMRS Entry	1.	Enter Action Date (MANDATORY ACTION CODE): Date reinstatement petition denied; DE 1775 Action Code 774/DE 2910 Action Code 283; Action Remarks: Enter reason (optional).	AUTOMATED NOTATION
	1a.	Enter DE 1775/2910 Action Code 202 for the lands to be offered for competitive sale.	
	2.	Enter Action Date (MANDATORY ACTION CODE): Date case closed; DE 1775/2910 Action code 970.	
Adjudication	3.	Refund the \$500 administrative fee and <u>Federal Register</u> publication monies in whole.	PETITION DENIED - FEE REFUND
	4.	Continue to process the lands for leasing.	

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S. Reduction of Royalty - Class III Reinstated LeaseKeywords

The procedures for processing a request for a reduction of royalty for a Class III reinstated/converted lease are the same as for a royalty reduction for a Class II reinstated lease. (See Step III.L, above.)

ROYALTY
REDUCTION
REQUEST

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IV. CancellationsKeywordsA. Lessee Defaults or Violations

If the lessee fails to comply with any provisions of the law, regulations, or the terms and conditions of the lease, the lease may be cancelled by the authorized officer if the leasehold does not contain a well capable of production of oil or gas in paying quantities, or if the lease is not committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities. (See 43 CFR 3108.3(a) and 30 U.S.C. 188(b).) The lease cannot be cancelled by the authorized officer if the rights of a bona fide purchaser have intervened (see Section V, below).

CANCELLATION
OF LEASE

The lessee must be allowed 30 days to cure a default before administrative action to cancel the lease is taken by the authorized officer. After 30 days have elapsed from the date of receipt of the decision, if the lessee has failed to take action to correct the default, lease cancellation action is to be taken. No rental refund is due the lessee. After the end of the appeal period, if no appeal has been filed, the lands are available again for lease only through the competitive leasing process in accordance with 43 CFR Part 3120.

CANCELLATION BY
ADMINISTRATIVE
ACTION

If an appeal is timely filed and the IBLA or a Federal Court determines that a lease cancellation is in error, a decision is to be prepared rescinding the decision cancelling the lease (see Illustration 47). The IBLA held in Howard S. Bugbee, 29 IBLA 30 (1977), that cancellation of an oil and gas lease is discretionary and not mandatory, and the lease need not be cancelled because of the failure of the lessee to meet a regulatory requirement that is amended, where there are extenuating circumstances and there is no impairment of third party rights and no adverse impact on the interests of the United States. (See also Merle C. Chambers, 40 IBLA 144 (1979).)

If the lease contains a well capable of production of oil or gas in paying quantities, or if the lease is committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities, it may be cancelled only by judicial proceedings in accordance with the provisions of Section 31(a) of the MLA (30 U.S.C. 188(a)). The judicial action must be taken in a Federal district court for the district in which the lands are located.

CANCELLATION
BY JUDICIAL
PROCEEDINGS

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Keywords

If a lease interest is owned or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of the MLA, judicial proceedings in Federal district court are required to cancel such an interest. The judicial action must be taken in a Federal district court for the district in which the lands are located.

CANCELLATION
OF PARTIAL OR
OTHER LEASE
INTERESTS

If less than the whole interest in a lease, interest, or option is cancelled or forfeited and there are valid interests in the lease not subject to cancellation, those cancelled or forfeited interests shall be offered by competitive bidding to the highest responsible qualified bidder. The competitive offering of such interests does not have to be by oral auction, but may be by sealed bid or other appropriate means (see 30 U.S.C. 184(h)(2)). (See Handbook 3120-1, Section III.B.)

A lease or interests therein held by an entity in violation of section 2(a)(2)(A) of the MLA (30 U.S.C. 201(a)(2)(A)) shall be subject to lease cancellation. Section 2(a)(2)(A) of the MLA requires that any entity that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, and who is not producing coal in commercial quantities from each such coal lease, cannot qualify for the issuance of any oil and gas lease (or any other mineral lease). However, acquisition by such entity of an oil and gas lease interest through an assignment or transfer is permissible. If an oil and gas lease is issued to an entity and, subsequently, the entity was determined to be in violation of section 2(a)(2)(A) at the time of such lease issuance, the oil and gas lease shall be cancelled. In the event the oil and gas lease interests have been assigned or transferred by that entity to another party, and it is later determined that the assignor was not in compliance with section 2(a)(2)(A), the Notice to Lessee that is required to be attached to every lease issued on or after December 31, 1986, (see Handbook 3120-1 and Handbook 3110-1) will prevent the transferee from qualifying as a bona fide purchaser, and the lease is subject to cancellation.

CANCELLATION DUE
TO VIOLATION
OF SECTION
2(a)(2)(A) OF
MINERAL LEASING
ACT

See also Section V, below, pertaining to bona fide purchasers, that often may be related to lease interests held in violation of the law or lease cancellation actions, and Section VI pertaining to waivers of lease rights that may apply during a lease cancellation proceeding.

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Keywords

An oil and gas lease issued, or an assignment or transfer approved, to an entity or any subsidiary, affiliate, person, association, or corporation controlled by or under common control of an entity which is found to be in violation of section 17(g) of the MLA shall be subject to cancellation. Noncompliance with Section 17(g) of the MLA begins on the effective date of the imposition of a civil penalty when the entity has failed or refused to comply with reclamation requirements on any lease and operations thereon in which such entity or person has an interest. The lease cannot be cancelled, however, during the pendency of any administrative or judicial appeals that have been filed concerning the violations or penalties assessed for failure to comply with the prescribed reclamation standards on the lease.

CANCELLATION DUE
TO VIOLATION
OF SECTION 17(g)
OF MINERAL
LEASING ACT

See Appendix 3 for a compendium of IBLA decisions concerning lease cancellation issues.

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KeywordsB. Lease Erroneously Issued

When a lease has been erroneously issued, the lease is subject to cancellation, with the exception that a lease issued for lands eligible and available for leasing, but that has been issued in violation of an administrative or regulatory requirement, need not be cancelled in the absence of an intervening qualified applicant or some overriding policy consideration. (See Merle C. Chambers, 40 IBLA 144 (1979) and Appendix 3.)

CANCELLATION
OF LEASE
ERRONEOUSLY
ISSUED

If the lands were eligible and available for leasing, and a lease is cancelled in whole or part because it was erroneously issued to a junior offeror, the law requires that the qualified person first making application for a lease (the senior offeror) is entitled to receive any lease that is issued. The junior offeror is entitled to a refund of the advance or earned rental. The lessee whose lease is improperly cancelled and who fails to appeal loses the right to the lease. If the lease is known to contain valuable deposits of oil or gas, it can be cancelled only by Federal district court action. (See Section IV.A, above.)

LEASE
ERRONEOUSLY
ISSUED TO
JUNIOR OFFEROR

Possible mistakes that occur resulting in issuing leases erroneously include the following (see also Appendix 3):

LEASE ISSUANCE
ERRORS

1. Erroneous interpretation or notation of the status of the land, i.e., a lease is issued for lands that are already in an existing lease, for patented lands, for withdrawn lands, for lands within a city limits, or for lands on which there is a prior offer, etc.

2. Erroneous interpretation of law or regulations resulted in issuance of a lease contrary to the law or regulations.

3. Lease issued without proper surface owner consent having been obtained, i.e., for Department of Defense (military) lands, acquired lands minerals, U.S. Forest Service lands (acquired and public domain mineral lands), etc. (See Joe E. Shelton, 73 IBLA 250 (1983).)

4. Known Geological Structure or Favorable Petroleum Geological Province lands that were inadvertently leased noncompetitively in response to pre-December 22, 1987, offers.

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KeywordsC. Lessee Objection to Stipulations

A lessee may lodge a protest and request revocation of a lease because of refusal to accept additional or changed stipulations that were placed on the lease prior to its issuance, but without adequate notice to the lessee and without signature of agreement to the changed stipulations (see Handbook 3120-1, Section II.E). The Onshore Oil and Gas Leasing Reform Act requires a minimum of 45 days notice of the offering of the lands for lease, and the exact language of all stipulations applicable to the lands are to be included in the sale notice. However, when additional or changed stipulations that would not increase the value of the lands are placed on the parcel after the posting of the sale notice, but prior to issuance of the lease, after a 45-day period required to give notice of the changed or added stipulation has elapsed, if the bidder/applicant was not been given a 30-day period by notice in which to accept the stipulation change, the lessee may refuse the lease within 30 days after the effective date of the lease.

LESSEE OBJECTS
TO ADDITIONAL
OR CHANGED
STIPULATIONS
PLACED ON LEASE

If a lessee requests revocation of a lease within 30 days after the lease effective date because a stipulation was changed after the competitive sale without notification allowing the lessee the opportunity to accept or appeal the stipulation, prepare a decision rescinding the lease. The first year's rental and any bonus bid shall be refunded, as well as the filing or administrative fee in such cases. These lands will not revert to noncompetitive leasing during the 2-year period following the sale, and must be offered for sale again. The lands in a rescinded lease that were based on a pre-December 22, 1987, offer must be offered competitively unless there is another pre-December 22, 1987, offer pending for the same lands.

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D. Processing Cancellations

Responsible Official	Step	Action	Keywords
Adjudication	1.	When a determination of default has been made, prepare an interlocutory decision allowing 30 days from date of receipt to cure the default.	DEFAULT/LEASE CANCELLATION
	2.	If the lessee fails or refuses to comply and the lease contains no well capable production of oil or gas in paying quantities, or is not committed to a unit or communitization agreement that contains a well capable of production of unitized substances in paying quantities, prepare a final decision cancelling the lease giving the right of appeal.	
	3.	The effective date of the cancellation is the date of the final decision, except that the cancellation may be stayed by any appeal of the decision that is filed by the lessee.	CANCELLATION EFFECTIVE DATE
	4.	Send copies of the final decision to the SMA and Field Office fluid minerals operations staff.	
	5.	Post a copy of the cancellation decision in the Public Room of the State Office, and ensure that the BLM Field Offices and the SMA office with jurisdiction over the lease lands involved also post a copy of the cancellation decision.	CANCELLATION DECISION POSTED

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Responsible

Official	Step	Action	Keywords
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NOTE: The law requires an elaborate method for sending the decision giving the lessee notice of default. The law at 30 U.S.C. 188(b) specifies, "Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States land office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land."

6. Complete the accounting advice cancelling the lease and send to the MMS-DMD through Accounts.

ACCOUNTING
ADVICE -
CANCELLATION

ALMRS Entry

7. Update the case in the ALMRS automated system to cancel the entire lease using the current data standards:

AUTOMATED
NOTATION

- 7a. Enter Action Date (MANDATORY ACTION CODE): Date of decision cancelling lease; DE 1775 Action Code 756/DE 2910 Action Code 199; Action Remarks: Reason for cancellation.

NOTE: Remove DE 1775/2910 Action Code 763. Also, if lands are available for leasing, enter DE 1775/2910 Action Code 202.

- 7b. Enter Action Date (MANDATORY ACTION CODE): Date case file of cancelled lease closed; DE 1775/2910 Action Code 970.

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Responsible Official	Step	Action	Keywords
	8.	Update the case in the ALMRS automated system to cancel the lease in part using the current data standards:	AUTOMATED NOTATION
	8a.	Enter Action Date (MANDATORY ACTION CODE): Date of decision cancelling lease in part; DE 1775 Action Code 757/DE 2910 Action Code 200; Action Remarks: Reason for cancellation.	
		<u>NOTE:</u> Change lease's legal land description and acreage. Also, if cancelled lands are available for leasing, enter DE 1775/2910 Action Code 202.	
Title Records	9.	If entire lease cancelled, remove oil and gas lease number and make appropriate notation to the records.	RECORDS NOTATION
Docket	10.	If entire lease cancelled, file case file with closed files.	
Adjudication	11.	If lands are available for leasing, continue to process the lands for re-leasing.	

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E. Processing Leases Improperly Issued

Responsible Official	Step	Action	Keywords
Adjudication	1.	If a lease was improperly issued to a party, cancel the lease by decision (see Illustration 48), except where the rights of a bona fide purchaser have intervened (see Section V, below).	CANCEL LEASE IMPROPERLY ISSUED
		<u>NOTE:</u> Cancel leases issued for patented lands and withdrawn lands, or for other lands that are not authorized under law to be leased. A bona fide purchaser cannot prevail in these cases.	
	2.	If applicable, issue a lease to the first qualified (senior) applicant.	
	3.	Inform the appropriate SMA of the lease cancellation by a copy of the decision, or use a list to report the leases that are cancelled (see Illustrations 24 and 25).	ADVISE SMA
	4.	If no appeal is filed, prepare an accounting advice to cancel the lease in whole or in part, and authorize a refund, if applicable. Route to Accounts and MMS-DMD.	ACCOUNTING ADVICE - RENTAL REFUND
ALMRS Entry	5.	Enter action Date (MANDATORY ACTION CODE): Date of decision cancelling the lease: DE 1775 Action Code 756/DE 2910 Action Code 199; Action Remarks: Reason for cancellation.	AUTOMATED NOTATION
Title Records	6.	If lease cancelled in its entirety, remove oil and gas lease number and make the appropriate notations to the records. Otherwise, adjust lease boundary when lease is cancelled in part.	RECORDS NOTATION
Docket	7.	File case file with closed files if lease is cancelled in its entirety.	

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Responsible

<u>Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
	8.	File case file for lease cancelled in part or newly issued lease with active cases.	
Adjudication	9.	Following cancellation of a lease, if there is no first qualified offeror and the cancelled lands are available for leasing, the lands must be reoffered under the competitive leasing system (see 43 CFR 3120 and Handbook 3120-1).	

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F. Processing Cancellation of Retained Lease Interests

Responsible Official	Step	Action	Keywords
Adjudication	1.	If a lease is issued to a lessee that has failed or refused to comply with any provisions of the law, the regulations, or the lease terms, and the lease has been assigned to a bona fide purchaser, the interest, e.g., the overriding royalty interest, retained by the lessee in noncompliance must be cancelled.	DEFAULT - CANCEL LEASE
	2.	Prepare a decision cancelling the interest retained by the lessee/assignor (see Illustration 49). Send a copy of the decision to the appropriate SMA.	CANCELLATION DECISION
ALMRS Entry	3.	Enter Action Date (MANDATORY ACTION CODE): Date of decision cancelling the lease interest; DE 1775 Action Code 757/DE 2910 Action Code 200; Action Remarks: Type of interest cancelled.	AUTOMATED NOTATION
Adjudication	4.	Following appeal period, if no appeal is filed, process cancelled interests for competitive leasing in accordance with 43 CFR 3120.1-1(c). (See Handbook 3102-1, Section II.E.)	OFFER FOR COMPETITIVE LEASING
Docket	5.	File case file with closed cases.	

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KeywordsV. Bona Fide PurchaserA. Introduction

The bona fide purchaser amendment was added to the MLA, 30 U.S.C. 184(h)(2) to 184(i), to protect bona fide purchasers of Federal oil and gas leases who acquired holdings in good faith from the possible consequences of violations of the law by their predecessors in title, e.g., predecessors that obtained leases in violation of the acreage limitation provisions. The bona fide purchaser amendment helped to promote development of oil and gas resources on public lands, and to protect innocent investors and purchasers.

BONA FIDE
PURCHASER

The Secretary has broad authority to cancel oil and gas leases for violations of the MLA and regulations thereunder, and for administrative errors committed before a lease was issued. However, the Secretary's authority is limited by the bona fide purchaser amendment. The bona fide purchaser protection does not extend to leases that are legal nullities (void), e.g., lands not subject to leasing by statute at the time of lease issuance. Also, the bona fide purchaser protection does not extend to post-lease infractions or violations because they are handled under the regulatory cancellation procedures of 43 CFR 3108.3. The bona fide purchaser protection does extend to voidable leases, e.g., the lease is issued for the lands available for leasing but is not issued to the first-qualified applicant, or the lease is issued in violation of established procedures (e.g., National Environmental Policy Act procedures, etc.). (See Clayton W. Williams, Jr., Exxon Corp., 103 IBLA 192 (1988).)

The bona fide purchaser protection applies only to a purchaser of a lease, interest in a lease, or an option to acquire an existing lease, but does not apply to an assignee of a lease offer since a lease does not yet exist. Also, if a lease has expired or terminated for failure to timely pay annual rental, the absence of a lease at the time of an assignment or transfer of operating rights deprives the transferee from any benefit of bona fide purchaser protection. Similarly, if lease rights were assigned or transferred prior to the lease anniversary date and the lease subsequently terminated by operation of law for nonpayment of the annual rental, bona fide purchaser protection does not exist. Actions by the assignor, such as lease relinquishment, do not afford the assignee bona fide purchaser protection.

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KeywordsB. Determining Bona Fide Purchaser

A bona fide purchaser must have acquired the interest in good faith, for valuable consideration, and without notice of a violation of Department of the Interior regulations. The protection of a bona fide purchaser of an oil and gas lease applies only where consideration has been paid before notice of cancellation has been received by the lessor and has become part of the BLM records. (See Bernard Kosik, 70 IBLA 373 (1983).) The consideration must be actually paid. A commitment to pay is not enough. (See Robert L. True (d/b/a/ Comanche Enterprises, Petroleum Research Corp., et al., Satellite 8303116, 101 IBLA 320 (1988).)

BONA FIDE
PURCHASER
DETERMINATION

The assignees of Federal oil and gas leases who seek to qualify as bona fide purchasers are deemed to have constructive notice of all of the BLM records pertaining to the lease at the time of the assignment. For example, if a noncompetitive oil and gas lease had been erroneously issued, effective December 1, 1986, in response to a junior offer filed June 4, 1986, and it was later determined that the lands were subject to a senior offer filed October 31, 1985, that was not recorded to the records until February 26, 1987, and the lessee of the junior filing enters into an assignment on June 8, 1987, the assignee is not a bona fide purchaser entitled to bona fide purchaser protection because the assignment was executed after the records had indicated the existence of senior offer. Therefore, the junior lease can be cancelled in this case. The test of notice of a superior right is whether the facts are sufficient to put an ordinarily prudent person on inquiry that, if followed with reasonable diligence, would lead to a discovery of defects in the title or equitable rights of others affecting the lease.

BONA FIDE
PURCHASER
QUALIFICATIONS

A remote purchaser, i.e. one who purchases an oil and gas lease interest from a bona fide purchaser, is protected just as the latter, even where the remote purchaser is chargeable with knowledge that there may have been a legal discrepancy when the lease was initially issued. (See Ervin Staacke, et al., 62 IBLA 278 (1982).) Note, however, that for remote purchaser protection, the remote purchaser must purchase the lease from a valid bona fide purchaser of the lease. (See Robert L. True (d/b/a Comanche Enterprises) Petroleum Research Corp., et al., Satellite 8303116, 101 IBLA 320 (1988).)

REMOTE
PURCHASER

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Keywords

When a lease cancellation is being considered for a lease that has been assigned, the SO Adjudication needs to ascertain whether the possibility exists that the assignee has bona fide purchaser status. In such a case, the decision issued to initiate lease cancellation is to provide the party the opportunity to present evidence that it acquired and holds the lease interest as a bona fide purchaser, and any opposing party is to be given the opportunity to indicate any evidence to the contrary (see York Associates, 58 IBLA 25 (1981)).

BONA FIDE
PURCHASER STATUS
EVIDENCE REQUEST

For any lease interest holders that are undergoing investigation for probable violations of the MLA, the regulations, or the provisions of the lease, the affected case files are to be documented with a Notice to Prospective Assignees regarding the investigation. The date the case file is noted is considered the date that constructive notice was given that the leases were subject to cancellation. (See Richard W. Eckels, 65 IBLA 76 (1982).) If an assignment is executed after the date that constructive notice is given, the assignee is not considered a bona fide purchaser. See Illustration 50 for a decision denying an assignment because the bona fide purchaser status could not be recognized.

CONSTRUCTIVE
NOTICE IN
CASE FILE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

KeywordsVI. Waiver of Lease RightsA. Introduction

The regulations at 43 CFR 3108.5 and the MLA at 30 U.S.C. 184(j) provide that during the lease cancellation proceedings, a lessee may file a waiver of lease rights, including the rights to assign any of the lease interests or to drill on the lease, or the Secretary of the Interior may suspend such rights pending a final decision on the cancellation proceedings. When a lessee files a waiver of lease rights in the proper BLM office, the obligation to pay rental and the lease term must be suspended beginning from the first day of the month following the filing of the waiver or the Secretary's suspension. During the waiver, the suspension continues until the first day of the month following the final decision of the proceeding or the revocation of the waiver. However, if the waiver of lease rights is filed in the proper BLM office after the lease anniversary date, and the rental had not been timely paid, the lease automatically terminates and the waiver of lease rights cannot be honored. The purpose of the waiver of lease rights and the suspension of the lease payments and lease term is to prevent the lease from terminating during the pendency of the cancellation proceedings, but at the same time to prevent the lease property from being transferred to another party or from being drilled and developed during the course of the cancellation proceedings.

WAIVER OF
LEASE RIGHTS

It is important to note that a waiver of lease rights is not limited to a bona fide purchaser.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

B. Waiver of Lease Rights Procedures

Responsible Official	Step	Action	Keywords
Adjudication	1.	Upon receipt of a waiver of lease rights, determine if it is acceptable, i.e., if it was executed by all of the current record title holders and was filed prior to the anniversary date. If the waiver is received after the anniversary date and the annual rental was not timely paid, prepare a decision denying the request for a waiver of lease rights. Send a copy to all interested parties (see Illustration 51).	WAIVER OF LEASE RIGHTS REVIEWED
	2.	If the waiver is acceptable, document the case file indicating the beginning date of the waiver suspension period.	DOCUMENT CASE FILE
	3.	Prepare accounting advice for the MMS-DMD to suspend the lease in its automated system (see Illustration 52).	ACCOUNTING ADVICE - SEND TO MMS-DMD
ALMRS Entry	4.	Enter Action Date (MANDATORY ACTION CODE): Effective date of suspension of lease; DE 1775 Action Code 315/DE 2910 Action Code 676; Action Remarks: Enter reason (LSE RGTS WAIVER).	AUTOMATED NOTATION
Adjudication	5.	Return case file to Docket until final action is taken on cancellation proceedings.	
Docket	6.	File cases with active cases.	
Adjudication	7.	If the cancellation is reversed, prepare a decision adjusting the lease terms. (See Handbook 3103-1.)	CANCELLATION REVERSED
ALMRS Entry	8.	Update the case in the ALMRS automated system using the current data standards. (See Appendix 5 for a listing of the key action codes from the data standards that are to be used in ALMRS Case Recordation and Record System Release 1.0.)	AUTOMATED NOTATION

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Responsible

Official	Step	Action	Keywords
----------	------	--------	----------

8a. Enter Action Date: Date decision reversed; DE 1775 Action Code 720/DE 2910 Action Code 366; Action Remarks: Cite IBLA decision.

8b. Enter Action Date (MANDATORY ACTION CODE): Date waiver of lease rights suspension lifted; DE 1775 Action Code 316/DE 2910 Action Code 678; Action Remarks: Optional.

8c. Enter Action Date (MANDATORY ACTION CODE): Date lease extended; DE 1775 Action Code 258/DE 2910 Action Code 235; Action Remarks: THRU MM/DD/YY; and

8d. Enter Action Date (MANDATORY ACTION CODE): Date lease expires; DE 1775/2910 Action Code 763; Action Remarks: Optional.

NOTE: In the ALMRS Case Recordation and On-line Recordation & Case Access System (ORCA), the lease will remain in the cancelled disposition unless an action code is inserted to put the lease back in an authorized disposition. In order to reactivate a lease, the cancelled codes must be removed and replaced with the DE 2910 Action Code 393 for a decision Issued, with entry in the Action Remarks of "LEASE CANCELLED."

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Showing Lease Relinquished in Entirety



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address

DECISION

:
:
:
:
:

Oil and Gas

Oil and Gas Lease Relinquishment Accepted

Pursuant to section 30(b) of the Mineral Leasing Act of February 25, 1920, 30 U.S.C. 187(b), as amended, the relinquishment of oil and gas lease (Serial number) in its entirety is accepted effective (Date).

In accordance with the regulations and the terms of the lease, the relinquishment is subject to the continued obligation of the lessee and surety to make payment of all accrued rentals or royalties and to place all wells on the lands relinquished in condition for suspension by authorized shut-in or abandonment, and to complete reclamation of the leased lands or surface waters adversely affected by lease operations in a timely manner after abandonment or cessation of oil and gas operations on the lease.

The lands embraced by the relinquished lease are:

Containing _____ acres.

Authorized Officer

Distribution:

MMS-DMD, Mail Stop 3110
SMA (if other than BLM)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Showing Partial Lease Relinquishment



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

	DECISION
Lessee/Address	:
	:
	:
	:
	:
	Oil and Gas

Oil and Gas Lease Relinquishment in Part Accepted

Pursuant to section 30(b) of the Mineral Leasing Act of February 25, 1920, 30 U.S.C. 187(b), as amended, the relinquishment of oil and gas lease (Serial number) in part is accepted effective (Date), as to the relinquished lands described below.

In accordance with the regulations and the terms of the lease, the partial cancellation is subject to the continued obligation of the lessee and surety to make payment of all accrued rentals or royalties and to place all wells on the lands relinquished in condition for suspension by authorized shut-in or abandonment, and to complete reclamation of the leased lands or surface waters adversely affected by lease operations in a timely manner after abandonment or cessation of oil and gas operations on the lease.

Lands relinquished:

Containing _____ acres.

Lands remaining in the lease:

Containing _____ acres.

Authorized Officer

Distribution:

MMS-DMD, M.S. 3110
SMA (if other than BLM)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice for Relinquishment of Lease
in Entirety

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECEIPT AND ACCOUNTING ADVICE

NO. 1420159 06

Subject: ENTIRE RELINQUISHMENT

Applicant: BIG OIL CORP.
1450 Oil Building, #100
Denver, CO 80299

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL	ACRES/UNITS	RATE		
CACA 55678									
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S/C	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
	5/1/1991			T					
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL	ACRES/UNITS	RATE		
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S/C	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS

APPLY REMITTANCE			
ACTION	FUND SYMBOL	CTY.	AMOUNT
FILING FEE			
RENTAL			
UNEARNED			
REFUND			
TOTAL			
AMOUNT DUE			

Remarks:

Entire lease relinquished.
Effective 12/20/1994.

BY: *Sally Smith* DATE: 12/28/94

- ☐ Lease in Escrow?
☐ KGS?
☐ Auto Escalates?
☐ Auto Renew?

- ☐ Of Interest?
☐ Operating Rights?
☐ Operator
☐ Bond Filed?

FOR MMS USE ONLY

BILLEE	NUMBER	FOREST REFUGE
OR'S SECTION		
CODE		

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice for Partial Lease Relinquishment

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECEIPT AND ACCOUNTING ADVICE

NO. 1420162₀₆

Subject: PARTIAL RELINQUISHMENT

Applicant: B&G OIL COMPANY
290 Sacramento Ave., #411
Sacramento, CA 95890

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL		ACRES/UNITS		RATE
CACA 57891		OA P	06	029 14	5003		600.00		1.50
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
900.00	7/1/1992	6/30/1997		R					
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL		ACRES/UNITS		RATE
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY.	AMOUNT	Remarks: Partial relinquishment; 600 acres remain in lease. Effective 1/9/1995.					
FILING FEE									
RENTAL									
UNEARNED									
REFUND									
TOTAL									
AMOUNT DUE									
<input type="checkbox"/> Lease in Escrow? <input type="checkbox"/> RGS? <input checked="" type="checkbox"/> Auto Escalates? <input type="checkbox"/> Auto Renew?				Of Interest? Operating Rights? Operator Bond Filed?		FOR MMS USE ONLY BILLEE NUMBER DC'S SECTION CODE			
						FOREST REFUGE			

BY: *Salv. Smith* DATE: 1/18/95

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice for Partial Lease Relinquishment
Involving Multiple Counties

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECEIPT AND ACCOUNTING ADVICE

NO. 1420166 08

Subject: PARTIAL RELINQUISHMENT INVOLVING MULTIPLE COUNTIES

Applicant: DIXON PETROLEUM CO.
1775 Dix Building
Denver, CO 80299

Remitter:

NOTE: Fill in both lines
even if only one line
contains the changes.

Assignor:

LEASE MANAGEMENT DATA									
ORIGINAL SERIAL NO	ASG.	TYPE	ST.	CTY.	FUND SYMBOL	ACRES/UNITS	RATE		
COC-81324		ON	P	08	032 14	5003	600.00	1.50	
				041 14	5003	160.00	1.50		
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S-C	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
900.00	5/1/1991	4/30/2001		R					
240.00									

ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL	ACRES/UNITS	RATE		

AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S-C	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS

APPLY REMITTANCE			
ACTION	FUND SYMBOL	CTY.	AMOUNT
FILING FEE			
RENTAL			
UNEARNED			
REFUND			
TOTAL			
AMOUNT DUE			

Remarks:
Partial relinquishment.
Effective 1/12/1995.

320 acres in County 032 and 40 acres in
County 041 relinquished.

BY *J. J. J. J.* DATE: 1/18/95

<input type="checkbox"/> Lease in Escrow?	Of Interest?	FOR MMS USE ONLY	
<input type="checkbox"/> KGS?	Operating Rights?	BILLEE	FOREST REFUGE
<input checked="" type="checkbox"/> Auto Escalates?	Operator	NUMBER	
<input type="checkbox"/> Auto Renew?	Bond Filed?	OR'S SECTION	
		CODE	

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Memorandum of Notification of Relinquished Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)

Memorandum

To: BLM Field Office Fluid Mineral Operations
From: State Director (Fluid Minerals Adjudication Code)
Subject: Oil and Gas Lease Relinquishments Accepted

The following leases were relinquished in their entirety:

(Name) District

Effective date: _____

(Lease serial number)

(Lease serial number)

The following leases were partially relinquished:

(Name) District

Effective date: _____

(Lease serial number) - ((Number) acres remain in lease)

Relinquished lands: (Legal land description)

(Name) District

Effective date: _____

(Lease serial number) - ((Number) acres remain in lease)

Distribution:

MMS-DMD, M.S. 3110 (for lease in nonterminable status)
SMA (if other than BLM)

(NOTE: If the SMA is not a Department of the Interior agency, convert this memorandum into a letter.)

OPTIONAL: Enclose copy of partial relinquishment instead of retyping legal description.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Letter Advising of Unacceptable Relinquishment
Failure of All Lessees to Sign Relinquishment



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

XYZ Corp.
P.O. Box 100
Anywhere, MT 59001

Gentlemen:

On (Date), entire relinquishments affecting oil and gas leases (Serial numbers) were filed in this office under the provisions of 43 CFR 3108.1. The cited regulation requires that a relinquishment of an oil and gas lease be signed by all of the record title holders of the lease.

The subject relinquishments are unacceptable as filed because they have not been executed by (Name), co-lessee. The relinquishment documents are being forwarded to the co-lessee for its execution and return to this office.

Sincerely,

Authorized Officer

Distribution:
Co-lessee (with relinquishments)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Letter Advising of Unacceptable Relinquishment -
Lease Previously Terminated



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

XYZ Corp.
P.O. Box 100
Anywhere, MT 59000

Gentlemen:

On December 29, 1994, an entire relinquishment of oil and gas lease (Serial number) was filed in this office.

A review of the official file reveals that the lease terminated November 1, 1994, for failure to pay the annual rental. The relinquishment is, therefore, unacceptable and has no effect on the lease.

Sincerely,

Authorized Officer

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decisions Rejecting Unacceptable Relinquishment



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

	DECISION
Lessee/Address	:
	:
	:
	:
	:
	Oil and Gas

Oil and Gas Lease Partial Relinquishment Unacceptable

On (Date), a partial relinquishment of oil and gas lease (Serial number) was filed in this office. The request was to relinquish 20 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, T 34N., R. 18E.

A relinquishment for less than the smallest legal subdivision is not allowed, since the lease covers the entire NW $\frac{1}{4}$ /NW $\frac{1}{4}$ of Section 4. Accordingly, your request for a partial relinquishment is unacceptable and is hereby denied.

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

Authorized Officer

Enclosure
Form 1842-1

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decisions Rejecting Unacceptable Relinquishme



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	DECISION	
	:	
	:	
	:	Oil and Gas
	:	
	:	

Oil and Gas Lease Partial Relinquishment Unacceptable

On (Date), a partial relinquishment of oil and gas lease (Serial number) was filed in this office. The request was to relinquish the Minneloosa Formation within the lease area.

A relinquishment for a separate zone, deposit or formation within an oil and gas lease is not allowed. Accordingly, your request for a partial relinquishment is unacceptable and is hereby denied.

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

Authorized Officer

Enclosure
Form 1842-1

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Example of Oil and Gas Deficiency Notice Issued by the MMS



United States Department of the Interior

MINERALS MANAGEMENT SERVICE

Royalty Management Program

P.O. Box 173702

Denver, Colorado 80217-3702

IN REPLY REFER TO

CVD-FCB-PCS

Mail Stop 3672

Re: NOM-DEF RENT

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

Dear Payor:

This letter is to inform you that a nominally-deficient rent payment has been identified by the Minerals Management Service. If the balance due is not remitted by the invoice due date, the lease will terminate pursuant to lease terms.

This deficiency was identified by comparing the annual rental amount due to the rental amount(s) paid for a lease year. A nominally-deficient balance is determined pursuant to 43 CFR §§ 3108.2 (1993) for oil and gas leases and 3244.2 (1993) for geothermal leases.

To ensure proper credit, return the enclosed TBIL Remittance Copy with your payment to the address indicated on the enclosure. Please notate your payor code (the 5-digit number to the left of the addressee name), invoice number, and lease number on your check.

If you have any questions, please call the Payment Compliance Section at (800)433-9801 or (303)231-3121.

Sincerely,

Dale C. Petersen

Dale C. Petersen
Chief, Payment Compliance Section

Enclosure
Notice of Deficiency

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Example of Oil and Gas Deficiency Notice Issued by the MMS

U S DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
ROYALTY MANAGEMENT PROGRAM

DATE: 10/04/94
PAGE: 1

BILL FOR COLLECTION

INVOICE NUMBER: TBIL 10940236

FEDERAL/INDIAN INDICATOR: F

BILL TO:

12345 JOHN BROWN
9875 S WARHAWK ROAD
CHEYENNE WY 82007

REMIT TO:

MINERALS MANAGEMENT SERVICE
ROYALTY MANAGEMENT PROGR.
P. O. BOX 5810 T.A.
DENVER CO 80217

LINE	AMOUNT DUE	MMS LEASE # AMOUNT PAID	BLM LEASE # BALANCE DUE	DUE DATE
------	------------	----------------------------	----------------------------	----------

NOMINALLY-DEFICIENT RENT

000001	\$ 121.50	049-123456-0 \$	WYW-123456 120.00	\$ 1.50	09/01/94
--------	-----------	--------------------	----------------------	---------	----------

NOTICE OF DEFICIENT RENT. LEASE WILL TERMINATE PER LEASE
TERMS IF BALANCE IS NOT REMITTED BY THE INVOICE DUE DATE.

DI1040
JUL '83

INVOICE TOTAL: \$ 1.50
DUE DATE: 10/28/94

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice for Refund of Rental Payment

When Nominal Deficiency Not Paid to the MMS

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICE

NO. 1420167 04

Subject: REFUND - TERMINATED LEASE/NOMINAL DEFICIENCY UNPAID

Applicant:

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL			ACRES/UNITS	RATE
CACA 38009									
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
	12/1/1991								
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL			ACRES/UNITS	RATE
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY.	AMOUNT	Remarks: Lease terminated 9/1/1994. Refund payment submitted 8/9/94, payment reference 8950.					
FILING FEE									
RENTAL									
UNEARNED									
REFUND			186.00						
TOTAL			186.00						
AMOUNT DUE									
<input type="checkbox"/> Lease in Escrow? <input type="checkbox"/> KGS? <input type="checkbox"/> Auto Escalates? <input type="checkbox"/> Auto Renew?				Of Interest? Operating Rights? Operator Hand Filed?		BY: <i>Scott Jones</i> DATE: 1/9/95 FOR MMS USE ONLY BILLEE NUMBER FOREST REFUGE OCS SECTION CODE			

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Notice of Rental Payment More
Than Nominally Deficient



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address :
NOTICE :
Oil and Gas :
:

Rental Deficiency
Lease Subject to Automatic Termination

You have furnished a deficient rental payment for the Federal oil and gas lease identified below:

<u>Serial No.</u>	<u>Anniversary Date</u>	<u>Rental Required</u>	<u>Rental Received</u>	<u>Balance Due</u>
-------------------	-------------------------	------------------------	------------------------	--------------------

Title 43 CFR 3108.2-1 provides that if a rental payment is received on or before its anniversary date but (1) the amount of the payment is deficient and the deficiency is nominal, or (2) the amount of payment was determined in accordance with an erroneous rental or acreage figure stated in a bill or decision, the lease shall not have automatically terminated unless the lessee fails to pay the deficiency within 15 days from receipt of a Deficiency Notice or until the anniversary date, whichever is later, to submit the full balance due.

Your rental payment was more than nominally deficient but has been received before the anniversary date. In addition, the lease records show that this deficiency was not the result of an erroneously issued bill or decision. Accordingly, if the balance due is not received by the Minerals Management Service on or before the anniversary date, (Date), the lease will automatically terminate. To pay the balance due, make your check payable to the Department of the Interior-MMS, indicate the lease serial number on the check, and mail the check to the following address:

Mineral Management Service
Royalty Management Program
Box 5640
Denver, Colorado 80217

Authorized Officer

Distribution:
MMS-DMD, Mail Stop 3110

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Procedures, Sample Printout, and Explanation of Automated
Clearing House Process for Rental Payments to the MMS

The use of the Automated Clearing House (ACH) will not change existing procedures between the BLM and the MMS. The only change that will occur is the documentation that will be available to the BLM to make appropriate decisions regarding oil and gas lease reinstatements.

If rental payments are received timely, the BLM will not know the method of payment. Only when a late payment or no payment was received will the BLM State Offices receive anything different from the MMS if the ACH method was used to make the payment. If no payment is received and the lessee contests the termination of the lease, the BLM will receive the different documentation from the lessee (sample copy, page 5). If a payment was late, the MMS will provide the ACH payment information.

Because electronic fund transfers do not go through the U.S. Post Office and do not come directly to the MMS, other ways of determining "timely payment" and "reasonable diligence" in accordance with the leasing regulations had to be identified. Pages 2 and 5 are the most reliable forms of information available that provide the data needed by the BLM.

This illustration includes a sample copy of the report that the MMS receives when it accesses Mellon's system to receive payment information. If a late payment is made by the ACH, instead of receiving a copy of the check and the original envelope, the BLM State Office will receive a copy of the printout like the one attached on page 2.

Should concerns arise regarding this report, please contact the MMS General Ledger Section at (303) 231-3574.

The following provides a short description of each item contained in the printout report:

1. The date the MMS accessed Mellon Bank to obtain payment details.
2. The date the MMS account was last updated.
3. The time of day that the MMS accessed Mellon Bank.
4. The time of day the MMS account was last updated.
5. The MMS account number at Mellon Bank.
6. The sending company name.
7. The sending company identification number at the sending bank.
8. Optional field for use by sending company.
9. Optional field for use by sending company.
10. The American Bankers Association number.
11. Optional field for use by sending company.
12. Identifies the MMS as the receiver of the funds.
13. Addenda record filled out per the MMS instructions (see attached).
14. Specific amount paid for item in addenda record.

NOTE: Page 2 of this illustration contains further explanation regarding item 13, above.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Procedures, Sample Printout, and Explanation of Automated

Clearing House Process for Rental Payments to the MMS

MELLON BANK TELECASH ACH/EDI DETAIL REMITTANCE AND PAYMENT REPORT			
TODAY'S DATE	OCT 26 94	TIME	11:12:11

EFFECTIVE DATE:	OCT 20 94		
ACCOUNT NUMBER:	100 911-4258		
C R E D I T S			
CCD+	\$60.00		
ORIGINATOR NAME:	MERIDIAN OIL	RECEIVER NAME:	MINERALS MANAGEMENT SE
ORIGINATOR ABA:	04300026	RECEIVER ID:	010135
ORIGINATOR ACCOUNT:	N/A	AUDIT NUMBER:	N/A
ORIGINATOR REF NBR:	043000261568967	NBR OF ITEMS:	0
ORIGINATOR REF DOC:	N/A		
/B/50210/WYW/31537//19941101/6000/R/10135/			
CCD+	\$160.00		
ORIGINATOR NAME:	MERIDIAN OIL	RECEIVER NAME:	MINERALS MANAGEMENT SE
ORIGINATOR ABA:	04300026	RECEIVER ID:	010136
ORIGINATOR ACCOUNT:	N/A	AUDIT NUMBER:	N/A
ORIGINATOR REF NBR:	043000261568969	NBR OF ITEMS:	0
ORIGINATOR REF DOC:	N/A		
/B/50210/NMLC/064159//19941101/16000/R/10136/			
CCD+	\$400.00		
ORIGINATOR NAME:	MERIDIAN OIL	RECEIVER NAME:	MINERALS MANAGEMENT SE
ORIGINATOR ABA:	04300026	RECEIVER ID:	010137
ORIGINATOR ACCOUNT:	N/A	AUDIT NUMBER:	N/A
ORIGINATOR REF NBR:	043000261568971	NBR OF ITEMS:	0
ORIGINATOR REF DOC:	N/A		
/B/50210/NMLC/045708//19941101/40000/R/10137/			
CCD+	\$160.00		
ORIGINATOR NAME:	MERIDIAN OIL	RECEIVER NAME:	MINERALS MANAGEMENT SE
ORIGINATOR ABA:	04300026	RECEIVER ID:	010138
ORIGINATOR ACCOUNT:	N/A	AUDIT NUMBER:	N/A
ORIGINATOR REF NBR:	043000261568973	NBR OF ITEMS:	0
ORIGINATOR REF DOC:	N/A		
/B/50210/NMNM/63723//19941101/16000/R/10138/			
CCD+	\$837.00		

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Procedures, Sample Printout, and Explanation of Automated
Clearing House Process for Rental Payments to the MMS

ADDENDA RECORD FORMAT CODING INSTRUCTIONS FOR RENTAL PAYMENTS RELATED TO COURTESY NOTICE

The CCD + Addenda record must contain specific details to allow the automated processing by MMS.
The format below shows the information you provide to your bank for the Addenda record:

NTE*PMT*/B/_____/_____/_____/_____/_____/_____/R/_____/^
1 2 3 4a 4b 4c 5 6 7 8 9

Note: Slashes are necessary to separate the fields.

Field		
1	Start Segment	▶ "NTE*PMT**"
2	Payment Type	▶ B = Courtesy notice
3	Payor-Billie No.	▶ MMS assigned 5 alpha-numeric digit number
4a	LsePrefix	▶ 1 to 4 digit alpha-numeric characters
4b	Lse No.	▶ 6 digit lease serial number
4c	Lse Suffix	▶ Up to 2 alpha-numeric characters
5	Due Date	▶ 8 digit lease due date in ccyyymmdd format
6	Lse Amt Due	▶ Up to 10 digit lease amount due (include cents but exclude decimal point)
7	R	▶ Rent payment indicator
8	Pmt Ref. No.	▶ Up to 10 digit unique payor assigned payment reference number. (This is similar to a preprinted check number)
9	End Segment	▶ "*" (Backslash)

The following is a sample \$40 rent payment for Courtesy Notice lease NM-1234 that is due from Payor-Billie 55555 on June 1, 1993. The remitter assigned Payment Reference Number BB11223399 to the payment.

NTE*PMT*/B/55555/NM/1234//19930601/4000/R/BB11223399/\

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Procedures, Sample Printout, and Explanation of Automated
Clearing House Process for Rental Payments to the MMS



H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Procedures, Sample Printout, and Explanation of Automated
Clearing House Process for Rental Payments to the MMS

1) CO-NAME PRODUCTION COMPANY				2) CO-ID: 9900460575		3) ENTRY-DESCR: LEASE RNTL		4) ENTRY-DATE 03-23-89		5) CO-DATE: 890323	
6) TC TRANS/ABA OGT ACCOUNT NUMBER				8) AMOUNT	9) CUST/EMPL ID	9) CUST/EMPL NAME	10) TRACE NUMBER	10) CHASE IDENTIFICATION			
22	0430-0026	1	911-4258	40.00	15-050049408	HMS-362695D:7	D21000025-09430	0093-2-0000009-890322-925			
11) 705NTE-PMT-A10860 065-052474-0-000F903D3D3XXXXX040189											
22	0430-0026	1	911-4258	10.00	15-050049466	HMS-362695D:9	D21000025-09430	0093-2-0000009-890322-925			
11) 705NTE-PMT-A10860 1-21661040189 2700R											
22	0430-0026	1	911-4258	40.00	16-429049408	HMS-362695D:7	D21000025-09435	0093-2-0000009-890322-925			
11) 705NTE-PMT-A10860 065-052474-0-000F903D3D3XXXXX040189											
22	0430-0026	1	911-4258	10.00	32-343049408	HMS-362695D:7	D21000025-09430	0093-2-0000009-890322-925			
11) 705NTE-PMT-A14693 1-21661040178 2800R											

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision of Notification of Default in Lease Terms for
Failure to Pay Annual Rental for a 1930 Act Right-of-Way Lease



H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision of Notification of Default in Lease Terms for

Failure to Pay Annual Rental for a 1930 Act Right-of-Way Lease



H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision of Notification of Default in Lease Terms for

Failure to Pay Annual Rental for Pre-Public Law 83-555 Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3103/3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

	DECISION
Lessee/Address	:
	:
	:
	Oil and Gas
	:
	:

Notice of Default in Lease Terms
Annual Rental Payment Required to Meet Lease Terms
Oil and Gas Termination Notice Vacated

Oil and gas lease (Serial number) was segregated out of oil and gas lease (Serial number) that was issued effective June 1, 1951. Leases issued at that time required rental to be paid annually on the anniversary date of the lease. However, when the annual rental is not paid for leases issued at that time, the payment due becomes a debt owed to the United States on the lease anniversary date. This is in contrast to leases issued after the promulgation of the Act of July 29, 1954 (Public Law 83-555), that automatically terminate by operation of the law for failure to pay the annual rental. Therefore, because this lease is not controlled by Public Law 83-555, the July 20, 1994, termination notice is hereby vacated.

The Minerals Management Service has notified this office that the annual rental for lease (Serial number) of \$80.00, due on or before June 1, 1994, was not paid.

If it was the lessee's intention to surrender the lease by not paying the rental, that has not occurred for this lease. However, the lessee may relinquish the lease in its entirety, provided that a written relinquishment of the lease is filed in this office, as allowed by the leasing regulations at 43 CFR 3108.1 (see enclosed copy). The lessee also may request proration of the rental on a pro rata monthly basis for the portion of the lease year prior to the filing of the surrender, i.e., up to the time the relinquishment is filed in this office (30 U.S.C. 188a; see enclosed copy). If this request for proration of the rental is made, the lessee must verify that the nonpayment of the rental was intended for the purpose of surrendering the lease, or such other reason that demonstrates that the failure to file the relinquishment timely was not due to a lack of reasonable diligence on the part of the lessee.

The failure to pay the rental due on or before June 1, 1994, is a default in the performance of the lease terms, and this decision constitutes notice of that default under Section 7 of the lease terms and the leasing regulation at 43 CFR 3108.3(a), copy enclosed.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision of Notification of Default in Lease Terms for

Failure to Pay Annual Rental for Pre-Public Law '83-555 Lease

Authorized Officer

3 Enclosures

Regulation 43 CFR 3108.1

Statute 30 U.S.C. 188a

Regulation 43 CFR 3108.3(a)

Distribution:

MMS-DMD, Mail Stop 3110

Format for Optional Notice Placed in Case File for 1930 Right-Of-Way
Lease That is Not Subject to Automatic Termination

NOTICE

This is a right-of-way lease issued
pursuant to the Act of May 21, 1930,
and is NOT subject to the automatic
termination provisions of
Public Law 83-555 enacted
July 29, 1954

KEEP THIS NOTICE ON TOP OF CASE FILE AT ALL TIMES

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Optional Notice Placed In Case File for Pre-Public Law

83-555 Lease That is Not Subject to Automatic Termination

NOTICE

This lease is NOT subject to the
automatic termination provision of

Public Law 83-555 enacted

enacted

July 29, 1954

KEEP THIS NOTICE ON TOP OF CASE FILE AT ALL TIMES

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS
Format for Decision of Notification of Default in Lease Terms
for Failure to Pay Annual Rental



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3103/3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	DECISION
:	:
:	:
:	Oil and Gas
:	:
:	:

Notice of Default in Lease Terms
Annual Rental Payment Required to Meet Lease Terms
Oil and Gas Termination Notice Vacated

The Minerals Management Service has notified this office that the rental for oil and gas lease (Serial number) of \$120.00 due on or before (Date) was not paid.

Public Law 83-555, effective July 29, 1954, required automatic termination of a lease that did not have a well capable of production of oil or gas in paying quantities if the annual rental was not timely paid. (The rental that was not paid was due on a date other than the lease anniversary date. OR Your lease is committed to a unit agreement for which there is a unit well capable of production, and the lease receives the benefits of this unit well even though the well is not on the leasehold.) Therefore, the lease did not automatically terminate for failure to pay the rental, and the rental is a debt owed to the United States. Accordingly, the termination notice dated (Date) is hereby vacated.

If it was the lessee's intention to terminate the lease by not paying the rental, that has not occurred for this lease. However, the lessee may relinquish the lease, provided that a written relinquishment is filed in this office, as allowed by the leasing regulations at 43 CFR 3108.1.

The failure to pay the rental due on before (Date) is a default in the performance of the lease terms, and this decision constitutes notice of that default under Section 13 (or other appropriate section in older lease forms) of the lease terms and the leasing regulations at 43 CFR 3108.3(a), copy enclosed.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision of Notification of Default in Lease Term:
for Failure to Pay Annual Rental

2

If the unpaid rental of \$120.00 is not paid, action will be taken to cancel the lease and to collect the amount owed to the United States. However, this action will not be taken until you have had an opportunity to submit the full rental amount that is due or to a relinquishment of the lease. You are allowed 30 days from the date of receipt of this decision in which to perform either one of these alternatives. Submit the rental payment or the relinquishment to this office. Make the check payable to the Department of the Interior-MMS, indicate the lease serial number on the check, and mail the check to the following address:

Mineral Management Service
Royalty Management Program
Box 5640
Denver, Colorado 80217

This is an interlocutory decision from which no appeal may be taken. If the lessee does not comply with this decision within the time allowed, a final decision will be issued that may be appealed.

Authorized Officer

2 Enclosures
Regulation 43 CFR 3108.1
Regulation 43 CFR 3108.3(a)

Distribution:
MMS-DMD, Mail Stop 3110

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Vacating Termination of a

Pre-Public Law 83-555 Oil and Gas Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	:	DECISION
	:	
	:	Oil and Gas
	:	
	:	

Oil and Gas Termination Notice Vacated
Ancillary Information

On June 16, 1994, a termination notice was issued for oil and gas lease (Serial number) because of failure to pay rental in a timely manner.

Public Law 83-555, effective July 29, 1954, required automatic termination of a lease if the annual rental was not paid on time. The June 16, 1994, notice was issued under the procedures established to enforce this law. However, oil and gas lease (Serial number) was issued April 1, 1942, and is not controlled by Public Law 83-555. Therefore, the June 16, 1994, notice is hereby vacated.

The lease records show that the lessee never elected to subject the lease to Public Law 83-555. Therefore, the lease remains subject to the mineral leasing law in effect prior to July 29, 1954, under which the lessee's failure to pay annual rental on time subjects the lease to cancellation only after the lessee has been given notice that 30 days are allowed in which to pay the past due rental that was not timely paid.

In the instant case, the rental was due April 1, 1994, but was not paid until April 14, 1994. Although the payment was late, it was made before this office issued a notice to the lessee requiring payment within 30 days. Therefore, the late payment eliminates the necessity of sending such a notice, and lease (Serial number) is in good standing with rental paid through March 31, 1995.

Authorized Officer

Distribution:
MMS-DMD, Mail Stop 3110

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Vacating Termination of Lease

When Rental Was Not Paid



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	DECISION	
	:	
	:	
	:	Oil and Gas
	:	
	:	

Oil and Gas Termination Notice Vacated
Ancillary Information

On (Date), a termination notice was issued for oil and gas lease (Serial number) because of failure to pay rental in a timely manner.

Public Law 83-555, effective July 29, 1954, requires automatic termination of a lease if the rental was not timely paid. However, the rental owed was due on a date other than the anniversary date because the lease was extended due to its elimination from the (Name) unit agreement. Therefore, the automatic termination provision of Public Law 83-555 is not applicable to the failure to pay this rental timely.

The rental was due on (Date), but was not received until (Date). Although the payment was late, it was received before this office issued a notice to the lessee requiring payment within 30 days. The late payment eliminates the necessity of sending such a notice, and lease (Serial number) is in good standing with rental paid through (Date). Therefore, the (Date) termination notice is hereby vacated.

Authorized Officer

Distribution:
MMS-DMD, Mail Stop 3110

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

(II.D.16)

Notice of Oil and Gas Lease Terminated Class I Reinstatement

Procedures (Form 3108-2b)



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Serial Number

Anniversary Date

NOTICE
OIL AND GAS LEASE TERMINATED
CLASS I REINSTATEMENT PROCEDURES

This is to inform you that your Federal oil and gas lease, serial number identified above, automatically terminated by law on the anniversary date shown above. The lease terminated because the rental payment was not received by the Minerals Management Service (MMS) on or before the anniversary date, or the first working day thereafter if MMS was not open on the anniversary date (30 U.S.C. 188(b) and 43 CFR 3108.2-1(1988)).

However, you qualify for reinstatement of your lease under Class I reinstatement provisions as outlined in 43 CFR 3108.2-2(a)(1988). The regulation provides that a rental payment received by the MMS in an envelope postmarked on or before the anniversary date constitutes reasonable diligence and, therefore, a lease is eligible for reinstatement. Your rental payment was received in an envelope postmarked on or before the date the payment was due at MMS.

Accordingly, pursuant to 43 CFR 3108.2-2(a)(1988), the lease may be reinstated if you submit the following within 60 days of the receipt of this Notice:

- A petition for reinstatement (form attached); and
- A \$25 filing fee (nonrefundable) made payable to DOI-BLM.

Mail the completed form and filing fee to the address on the letterhead of this notice. Failure to respond within 60 days will result in forfeiture of your rights to reinstatement of the lease.

Authorized Officer

1 Attachment—Petition for Reinstatement (1 p.)

Form 3108-2b (February 1989)

Tear


Tear

Tear

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Notice of Oil and Gas Lease Terminated Class I Reinstatement
Procedures (Form 3108-2b)

Detach and return this portion.



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

PETITION FOR REINSTATEMENT—CLASS I

LEASE NUMBER: _____

I hereby petition for reinstatement of the above-referenced oil and gas lease under Class I reinstatement provisions outlined in 43 CFR 3108.2-2(a).

The payment was mailed on or before the date it should have been received by the Minerals Management Service, which constitutes reasonable diligence.

Enclosed is my \$25 nonrefundable filing fee.

Date

Lessee Signature

Address

City

State

Zip

The signature on this form by the Authorized Officer constitutes acceptance of your petition and reinstatement of your lease. You will receive a signed copy for your records.

Do Not Write Below This Line

For Official Use Only

The above-referenced oil and gas lease is hereby reinstated in accordance with 43 CFR 3108.2-2(a) effective on the date of termination.

THE UNITED STATES OF AMERICA

By

Authorized Officer

Title

Date

Notice of Oil and Gas Lease Terminated (Form 3108-2)



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Serial Number

Anniversary Date

NOTICE
OIL AND GAS LEASE TERMINATED

This is to inform you that your Federal oil and gas lease, serial number identified above, automatically terminated by law because your rental payment was not received on or before the anniversary date. This termination was effective on the anniversary date of the lease. You may qualify for reinstatement of the lease under Class I and/or Class II reinstatement provisions as described below. No specific form is required to petition for reinstatement. A letter describing the reason that the rental payment was not received by the anniversary date is sufficient.

Class I Reinstatement. A petition for reinstatement of the lease may be considered pursuant to the provisions of 30 U.S.C. 288(c) and 43 CFR 3108.2-2. The right of reinstatement is subject to all of the following conditions and procedures provided that:

1. A new oil and gas lease has not been issued for any of the lands affected by the terminated lease; and
2. Rental due was received within 20 days of the anniversary date of the lease; and
3. A petition for reinstatement, including an explanation of the reason for failure to timely pay rental, is filed with this office within 60 days after receipt of this Notice, along with a nonrefundable filing fee of \$25; and
4. It is shown to the satisfaction of the authorized officer that failure to pay rental timely was either justifiable or not due to lack of reasonable diligence.

If you do not meet all of the conditions listed above, you may be eligible for:

Class II Reinstatement. A petition for reinstatement also may be considered pursuant to the provisions of 30 U.S.C. 188 (d) and (e) and 43 CFR 3108.2-3. The right of reinstatement is subject to the following conditions and procedures provided that:

1. A new oil and gas lease has not been issued for any of the lands affected by the terminated lease; and
2. Within 60 days after receipt of this Notice, a petition for reinstatement together with all back rental and; or royalty at the increased rates accruing from the date of termination of the lease at the rate identified below is filed in this office; and

(Continued on reverse)

Form 3108-2 (November 1990)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Notice of Oil and Gas Lease Terminated (Form 3108-2)

Payments are to be made payable to the "Department of the Interior—BLM."

Because of the strict time limits imposed by the laws specified above, you may desire to file your petition under both of the above provisions. Filing a petition for a Class I reinstatement does not stop the running of 60 days from receipt of this Notice to file a petition for a Class II reinstatement. If you file an acceptable petition under both Classes, the petition will first be considered for a Class I. If it is determined that the Class I petition cannot be granted under the provisions of the applicable law and regulations, the Class II petition will then be considered. If reinstatement under Class I is allowed, the \$500 administrative fee, surplus rental, and the Federal Register deposit will be refunded.

Before filing a petition for reinstatement under either Class I or Class II provisions, the information provided in the Lease Termination/ Reinstatement Facts below should be considered.

Your Class I and/or Class II Petitions for reinstatement must be filed with this Office at the address given on the letterhead. Failure to respond within 60 days will result in forfeiture of your rights to reinstatement of the lease.

Notice of Oil and Gas Lease Terminated Class II

Reinstatement Procedures (Form 3108-2a)



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Serial Number

Anniversary Date

NOTICE
OIL AND GAS LEASE TERMINATED
CLASS II REINSTATEMENT PROCEDURES

This is to inform you that your Federal oil and gas lease, serial number identified above, was automatically terminated by law because your rental payment was not received on or before the anniversary date. This termination was effective on the anniversary date of the lease. You may qualify for reinstatement of the lease under Class II reinstatement provisions described below. No specific form is required to petition for reinstatement. A letter describing the reason that the rental payment was not received by the anniversary date is sufficient.

Pursuant to 30 U.S.C. 188(d) and (e) 43 CFR 3108.2-3, you have a right to petition for reinstatement of the lease. The right of a Class II reinstatement is subject to all of the following conditions and procedures provided that:

1. A new oil and gas lease has not been issued for any of the lands affected by the terminated lease; and
2. Within 60 days after receipt of this Notice, a petition for reinstatement together with all back rental and/or royalty at the increased rates accruing from the date of termination of the lease at the rate identified below is filed in this office; and
3. It is shown to the satisfaction of the authorized officer that failure to pay rental timely was justified or not due to a lack of reasonable diligence or no matter when the rental was paid, such failure was inadvertent; and
4. The authorized officer determines that the requirements for filing the petition of reinstatement have been timely met, in which case, the lease may be reinstated if the lessee agrees to new lease terms increasing rental and royalty rates as described below:
 - For **Noncompetitive Leases** issued pursuant to Section 17(c) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, 226(c)), rental at a rate of \$5 per acre or portion thereof per year, and royalty at a rate of not less than 16 2/3 percent; or
 - For **Competitive Leases** issued pursuant to Section 17(b) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, 226(b)), rental at a rate of \$10 per acre or portion thereof per year, and royalty at a rate of not less than 16 2/3 percent computed on a sliding scale and at a rate which shall not be less than 4 percentage points greater than the competitive royalty schedule currently in effect; and

(Continued on reverse)

Form 3108-2a (November 1990)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Notice of Oil and Gas Lease Terminated Class II

Reinstatement Procedures (Form 3108-2a)

5. The lessee pays the Bureau of Land Management for the cost of reinstating the lease consisting of:
- \$125 to ensure payment of the cost of publication in the **Federal Register**; and
 - A \$500 nonrefundable administrative fee.

Payments are to be made payable to the "Department of the Interior—BLM."

Before filing a petition for reinstatement under Class II provisions, the information provided in the **Lease Termination/Reinstatement Facts** below should be considered.

Your Class II petition for reinstatement **must** be filed with this Office at the address given on the letterhead. If you do not file a petition within **60 days**, you lose all rights to reinstate your lease.

LEASE TERMINATION/REINSTATEMENT FACTS

Termination of your lease is automatic and is statutorily imposed by Congress when the annual rental is not timely received. The Bureau of Land Management has no discretion in the matter and merely notifies you of this occurrence. Such termination is triggered solely by failure of a lessee to submit the rental timely.

The lessee has the responsibility to ensure that the rental payment is timely received. The lessee may choose any appropriate delivery method, including U.S. Postal Service, but the Postal Service (or other third party) becomes the agent of the lessee. Payments have to be sent sufficiently in advance of the lease anniversary date to allow for normal delays by the Postal Service (or other third party) in the collection, transmittal and delivery to the designated Minerals Management Service Office.

Each lessee/ assignee has the responsibility to be familiar with all of the lease terms and obligations, including the lease anniversary date and the total, correct amount of the annual rental due, without benefit of a courtesy billing notice. Reliance on receipt of a billing notice does not justify or excuse a failure to pay rental timely, as the notice is sent to the lessee merely as a courtesy.

Reinstatement terms are set by Congress without discretion, not by the Bureau of Land Management, under the provisions of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982.

Authorized Officer

Format for Memorandum to Field Office Operations

Reporting List of Terminated Leases



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)

Memorandum

To: Field Office Fluid Mineral Operations
From: State Director (Fluid Minerals Adjudication Code)
Subject: Oil and Gas Lease Terminations

The following leases were terminated for nonpayment of rental:

NOTE: (Serial number) was terminated and listed on the report of
(Date); (Serial number) was terminated and listed on the report of
(Date); and (Serial number) was terminated and listed on the report
of (Date). Please remove these from your list of terminations as
these leases have been reinstated effective their termination dates.

Distribution:

Format for Letter to Surface Management Agency Reporting
List of Terminated Leases



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO:

3108 (Office Code)

(Surface Managing Agency)
Address

Dear _____:

The following leases terminated for nonpayment of rental:

NOTE: Lease (Serial number) was listed as terminated (Date), in error. Rent was paid timely. This lease is to be removed from our list of terminations.

Sincerely,

Authorized Officer

Distribution:
Field Office Operations

Format for Decision Granting Class I Lease Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address

DECISION

:
:
:
:
:

Oil and Gas
Class I Reinstatement

Lease Reinstated

Oil and gas lease (Serial number) terminated (Date), because the rental was not timely paid. On (Date), the lessee petitioned for a Class I reinstatement of the lease in accordance with the leasing regulations at 43 CFR 3108.2-2 (30 U.S.C. 188(c)).

The petition meets the conditions of the regulations and law for reinstatement of the lease. Accordingly, lease (Serial number) is hereby reinstated effective (Date) under its existing terms. The late rental payment of \$ (Date) made on (Date) will be applied to the lease year beginning (Date).

Authorized Officer

Distribution:

NOTE: In the unusual situation where the Class I reinstated lease also is extended, modify the decision as follows:

1. Add a second subject line reading: Lease Extended
2. Change the second paragraph to read: The petition meets the conditions of the regulation and law for reinstatement of the lease. Accordingly, oil and gas lease (Serial number) is hereby reinstated effective (Date) under its existing terms. Under the provisions of the law, the lease also is hereby extended through (Date). The late rental payment of \$ (Date) made on (Date) will be applied to the lease year beginning (Date).

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice for Class Lease Reinstatement

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICE

NO. 1420110 04

Subject: CLASS I REINSTATEMENT

Applicant: Robert A. James
12498 Thanksgiving Lane
Anywhere, CA 95122

Remitter:

Assignor:

LEASE MANAGEMENT DATA															
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT															
ORIGINAL SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL		ACRES/UNITS	RATE							
CACA 23925		ON P	04	023 14	5003		600.00	1.50							
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S/C	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS						
900.00	7/1/89	6/30/99		E											
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL		ACRES/UNITS	RATE							
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S/C	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS						
APPLY REMITTANCE															
ACTION	FUND SYMBOL	CTY.	AMOUNT												
FILING FEE															
RENTAL															
UNEARNED															
REFUND															
TOTAL															
AMOUNT DUE															
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Lease in Escrow? <input type="checkbox"/> KGS? <input checked="" type="checkbox"/> Auto Escalates? <input type="checkbox"/> Auto Renew? </div> <div> Of Interest? Operating Rights? Operator Bond Filed? </div> <div> Remarks: Petition for Class I Reinstatement granted. Apply late payment received 7/5/94, payment reference 3609, to rental for lease year beginning 7/1/94. </div> </div>															
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Lease in Escrow? <input type="checkbox"/> KGS? <input checked="" type="checkbox"/> Auto Escalates? <input type="checkbox"/> Auto Renew? </div> <div> Of Interest? Operating Rights? Operator Bond Filed? </div> <div> BY: <i>Carrie Money</i> DATE: 9/6/94 FOR MMS USE ONLY <table border="1"> <tr> <td>BILLEE</td> <td>NUMBER</td> <td>FOREST REFUGE</td> </tr> <tr> <td>OC'S SECTION</td> <td>CODE</td> <td></td> </tr> </table> </div> </div>										BILLEE	NUMBER	FOREST REFUGE	OC'S SECTION	CODE	
BILLEE	NUMBER	FOREST REFUGE													
OC'S SECTION	CODE														

Format for Decision Denying Class I Lease Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	DECISION	
	:	
	:	
	:	Oil and Gas
	:	
	:	

Petition for Reinstatement
Under Public Law 91-245 (Class I) Denied

Under the terms of the lease, rental payment for the above captioned oil and gas lease for the year commencing October 1, 1994, was required to have been made before 4:00 p.m. on October 3, 1994 (the first working day after the anniversary date of October 1, 1994).

A petition for reinstatement under Public Law 91-245 was timely filed on November 1, 1994. Remittance of the rental was also received on the same date. This office is without authority to reinstate the lease under Public Law 91-245 (Class I) and the leasing regulations at 43 CFR 3108.2-2(a)(1), since the required rental was not received within the 20-day limit. Therefore, the petition for reinstatement is denied.

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

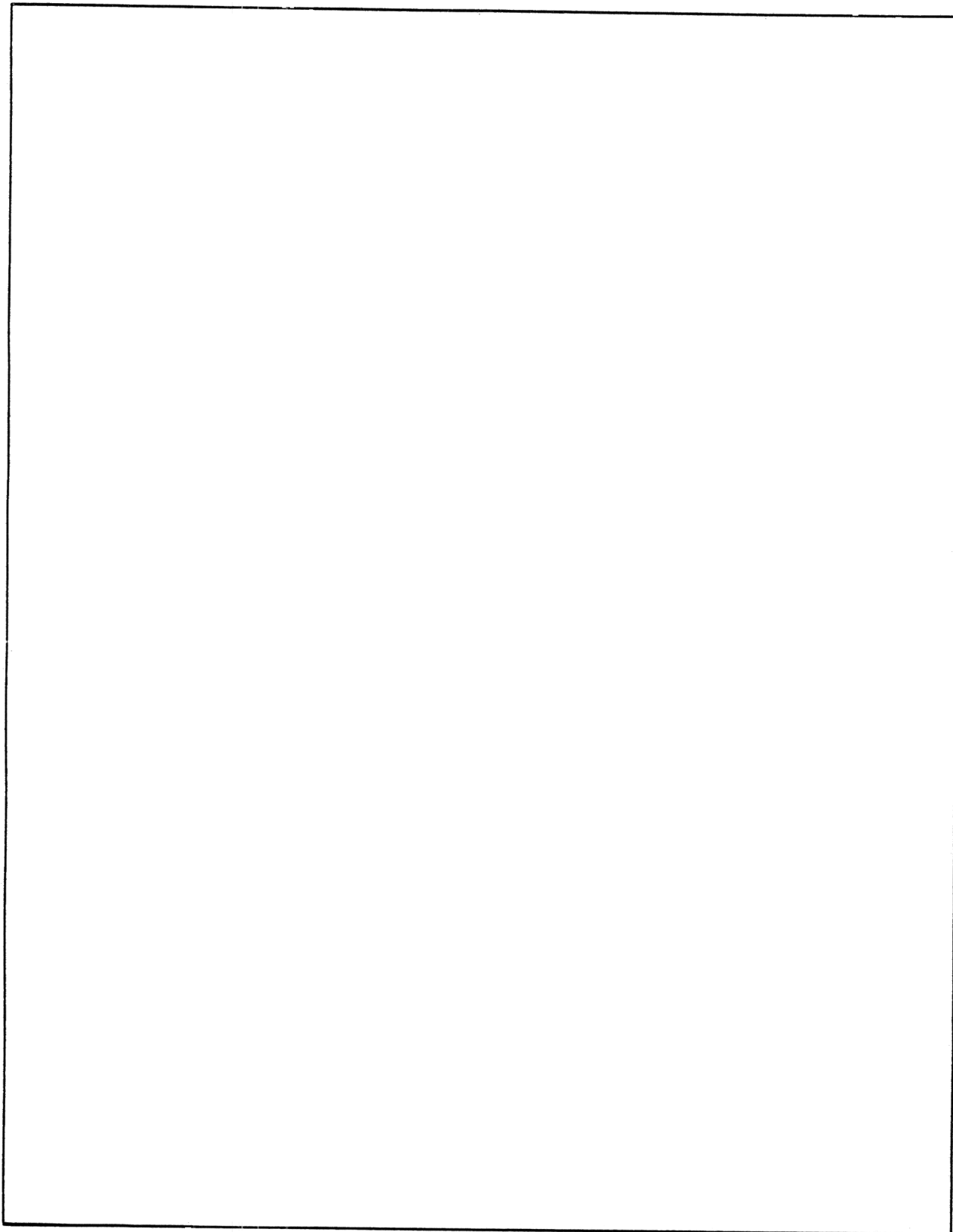
In addition, if an appeal of this decision is considered, the following information is to be taken into account:

Termination of the lease was automatic and is statutorily imposed by Congress when the annual rental was not timely received. The Bureau of Land Management (BLM) has no discretion and merely notifies the lessee of this occurrence. Such termination is triggered solely by failure of the lessee to submit rental timely.

The lessee has the responsibility to ensure that the rental payment is timely received. The lessee may choose any appropriate delivery method, including the U.S. Postal Service, but the Postal Service (or other third party) is the agent of the lessee and not that of the Federal Government. Payments have to be sent sufficiently in advance of the lease anniversary date to allow for normal delays on the part of the Postal Service in the collection, transmittal, and delivery to the designated Minerals Management Service office.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Denying Class I Lease Reinstatement



H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice Authorizing a Refund by the MMS

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICE

NO. 1420170 04

Subject: REFUND

Applicant: Blow Oil Co.
999 Smith St., #207
Oil City, PA 19279

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG.	TYPE	ST	CTY	FUND SYMBOL			ACRES/UNITS	RATE
OHES 56432									
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
	9/1/1991								
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST	CTY	FUND SYMBOL			ACRES/UNITS	RATE
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY	AMOUNT						
FILING FEE									
RENTAL									
UNEARNED									
REFUND			120.00						
TOTAL			120.00						
AMOUNT DUE									
Remarks: Lease terminated 9/1/1994. Refund late payment received 9/6/1994, payment reference 8564.									
BY: <i>Jane Honey</i> DATE: 11/21/94									
FOR MMS USE ONLY									
BILLEE					FOREST REFUGE				
NUMBER									
OCS SECTION									
CODE									

☐ Lease in Escrow?
☐ RGS?
☐ Auto Escalates?
☐ Auto Renew?

Of Interest?
 Operating Rights?
 Operator
 Bond Fund?

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice Authorizing a Refund by the BLM

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICE

NO. 1420172 04

Subject: REFUND

Applicant: John Smith
100 Main Ave., #1208
Los Angeles, CA 94999

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL			ACRES/UNITS	RATE
CACA 54301									
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
	10/1/90								
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST.	CTY.	FUND SYMBOL			ACRES/UNITS	RATE
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY.	AMOUNT	Remarks:					
FILING FEE				Rental paid to BLM on terminated lease.					
RENTAL				Please refund.					
UNEARNED									
REFUND			400.00						
TOTAL			400.00						
AMOUNT DUE									
<input type="checkbox"/> Lease in Escrow? <input type="checkbox"/> RGS? <input type="checkbox"/> Auto Escalates? <input type="checkbox"/> Auto Renew?				Of Interest? Operating Rights? Operator Bond Forest?				BY: <i>Janet H. Jones</i> DATE: 1/4/95	
FOR MMS USE ONLY									
BILLEE					FOREST REFUGE				
NUMBER									
OCS SECTION									
CODE									

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Denying Class II Lease Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

DECISION

Lessee/Address

:
:
:
:
:

Oil and Gas

Class II Petition for Reinstatement Denied

By a notice of termination dated December 21, 1994, the lessee was notified that oil and gas lease (Serial number), on which there are no wells capable of production, automatically terminated by law because the rental payment was not received on or before the anniversary date. The notice also specified that the lessee had a right to petition for a Class II reinstatement of the lease under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2-3.

The lessee responded to the notice of termination by petitioning for reinstatement of the lease under the Class II reinstatement procedures.

The lease records show that the lessee received the termination notice on January 6, 1995, and filed the petition for reinstatement, including the back rental accruing from the termination date of the lease on March 23, 1995. The time elapsing from the date the lessee received the termination notice and the date the petition and back rental were received at this office was 77 days.

A mandatory requirement under 30 U.S.C. 188(d) is that no lease terminating after January 12, 1983, shall be reinstated unless a petition for reinstatement and the back rental accruing from the date of the termination of the lease is filed on or before the earlier of:

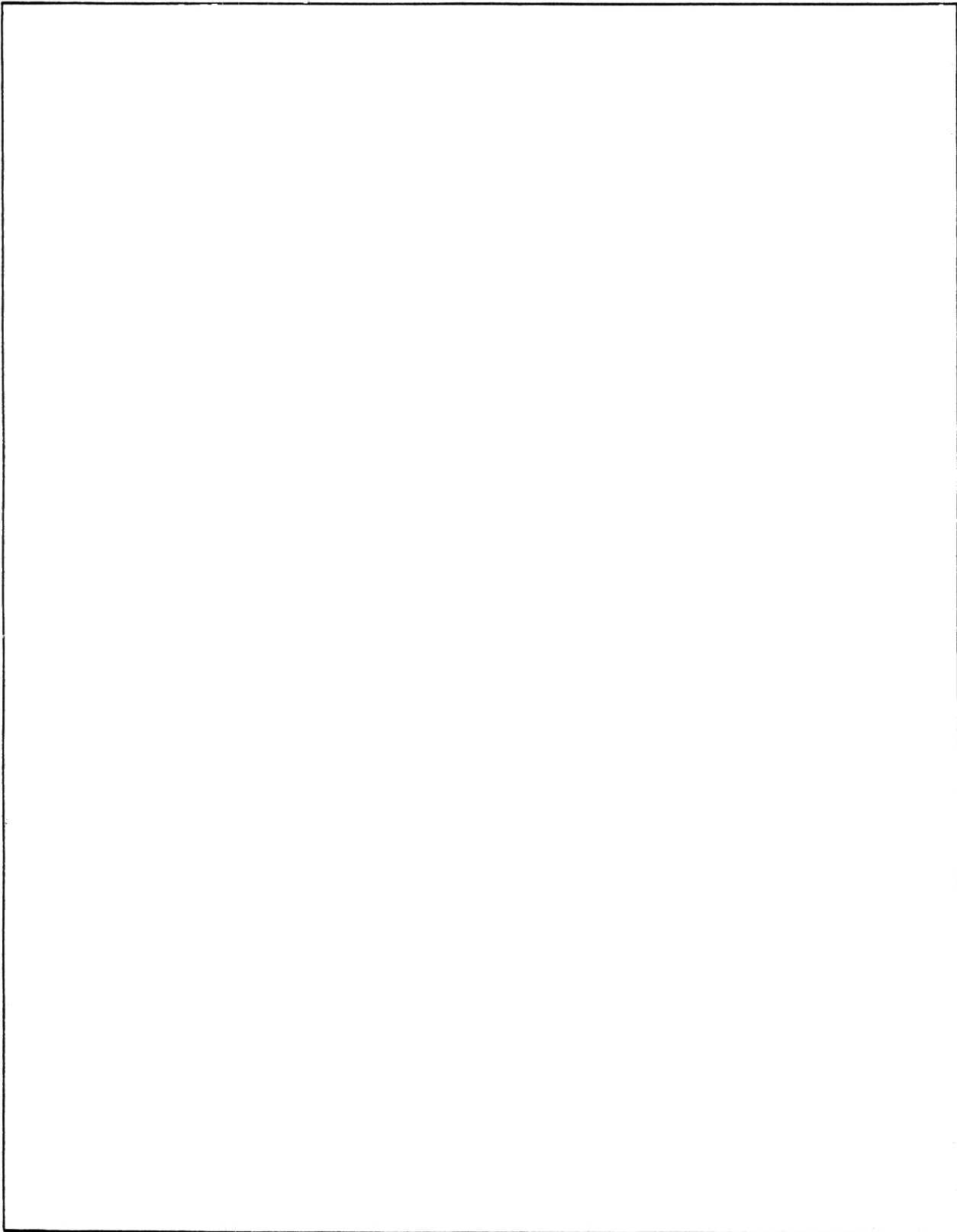
- (i) Sixty days after the lessee received from the BLM authorized officer a notice of termination, whether by return of the payment or by any other form of actual notice; or
- (ii) Fifteen months after termination of the lease.

The above cited 60-day time limit for filing a petition and the back rental is also specified in the termination notice and the leasing regulations at 43 CFR 3108.2-3.

Under the above cited mandatory requirement, the lessee had to have filed its petition for reinstatement of lease (Serial number) to be received in this office within 60 days of the lessee's receipt of the termination notice dated December 21, 1994, in order for this office to give consideration to the petition. Accordingly, since the lessee took 77 days in which to do so, the petition for reinstatement of lease (Serial number) is hereby denied.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Denying Class II Lease Reinstatement



Format for Accounting Advice Refund Class II

Reinstatement Monies Paid to BLM

Form 1370-41
(March 1984)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECEIPT AND ACCOUNTING ADVICE

NO. 1420114 04

8/2/94

Subject: REFUND

Applicant: James Doe
9809 First Street
Sacramento, CA 97299

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG.	TYPE	ST	CTY	FUND SYMBOL			ACRES/UNITS	RATE
CACA 23449									
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
ASSIGNMENT SERIAL NO.	ASG.	TYPE	ST	CTY	FUND SYMBOL			ACRES/UNITS	RATE
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL				CTY.	AMOUNT			
FILING FEE									
RENTAL									
UNEARNED									
REFUND						850.00			
TOTAL						850.00			
AMOUNT DUE									
Remarks: Class II reinstatement petition denied. Please refund all monies submitted with petition.									
BY <i>James Doe</i> DATE 8/17/94									
FOR MMS USE ONLY									
BILLEE					FOREST REFUGE				
NUMBER									
DCS SECTION									
CODE									
Lease in Escrow? KGS? Auto Escrow? Auto Renew?									
Of Interest? Operating Rights? Operator Basis of Cost?									

Format for Notice Requiring Submission of Lease Amendment for
New Lease Terms for Class II Lease Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address :
: NOTICE
: : Oil and Gas
: :
: :

Petition For Reinstatement
Additional Requirement

Your oil and gas lease (Serial number) terminated (Date), for failure to make timely payment of rental due.

Your Class II petition for reinstatement and your payment of the rental at the rate of \$5 per acre or fraction thereof (\$10 per acre or fraction thereof if a competitive lease), the \$500 reinstatement fee, and the Federal Register publication costs were received in this office (Date).

In order for the lease to be reinstated, you must execute and return all copies of the enclosed amendment of lease terms increasing the lease rental and royalty rates.

If the above requirement is not met within 30 days from receipt of this notice, a decision denying the petition for reinstatement will be issued and the leased lands will be subject to further leasing in accordance with the competitive procedures under 43 CFR Part 3120 in the absence of an appeal of the decision.

Authorized Officer

Enclosure
Amendment of Oil and Gas Lease Terms (in duplicate)

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Lease Amendment for Noncompetitive and Post-12/22/87

Competitive Oil and Gas Lease (Class II Reinstatement)

AMENDMENT OF LEASE TERMS

(Noncompetitive Lease and Post-12/22/87 Competitive Leases -
CLASS II REINSTATEMENT)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

Effective Date of Lease

OIL AND GAS LEASE AMENDMENT

Amendment Issued Effective

Pursuant to the provisions of Public Law 97-451 (96 Stat 2447), the lessee
agrees to new lease terms increasing rental and royalty rates as follows:

Rental of * per acre, or fraction of an acre, per year.

Royalty at a rate of 16% percent.

* Enter \$5 for a noncompetitive lease, and \$10 for a competitive lease issued
after December 22, 1987.

This amendment, to be attached to and made a part of the lease, is effective
as of the date shown above.

The UNITED STATES OF AMERICA

Lessee

By

Authorized Officer

Date

Title

Date

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

(III.G.2a)

Format for Lease Amendment for Pre-12/22/87 Competitive

Oil and Gas Lease (Class II Reinstatement)

AMENDMENT OF LEASE TERMS

(Pre-12/22/87 Competitive Lease - CLASS II REINSTATEMENT)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number _____

Effective Date of Lease _____

OIL AND GAS LEASE AMENDMENT

Amendment Issued Effective _____

Pursuant to the provisions of Public Law 97-451 (96 Stat 2447), the lessee
agrees to new lease terms increasing rental and royalty rates as follows:

Rental of \$10 per acre, or fraction of an acre, per year.

Royalty at a rate of not less than 16% percent, computed on a sliding
scale 4 percentage points greater than the competitive royalty schedule in
the original lease.

This amendment, to be attached to and made a part of the lease, is effective
as of the date shown above.

The UNITED STATES OF AMERICA

LesseeBy _____
Authorized Officer_____
Date_____
Title_____
Date

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Lease Amendment for Section 14 Renewal Lease

Class II Reinstatement

AMENDMENT OF LEASE TERMS

(Section 14 Renewal Lease - CLASS II REINSTATEMENT)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

Effective Date of Lease

OIL AND GAS LEASE AMENDMENT

Amendment Issued Effective

Pursuant to the provisions of Public Law 97-451 (76 Stat 2447) and Public Law 101-567, the lessee agrees to new lease terms increasing rental and royalty rates and changing the term of the lease as follows:

Rental of \$5.00 per acre, or fraction of an acre, per year.

Royalty at a rate of 16% percent.

The term of the lease is for a 20-year period ending (Date), and so long thereafter as oil or gas is produced in paying quantities.

This amendment, to be attached to and made part of the lease, is effective as of the date shown above.

The UNITED STATES OF AMERICA

Lessee

Authorized Officer

Date

Title

Date

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Notice of Additional Requirements and Lease

Amendment for New Lease Terms for Class II Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO:

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address

NOTICE

:
:
: Oil and Gas
:
:

Petition For Reinstatement
Additional Requirements

Oil and gas lease (Serial number) terminated (Date), for failure to make timely payment of rental due.

Your petition for a Class II reinstatement and your payment of the \$5 per acre (\$10 per acre if a competitive lease) rental were received in this office (Date).

In order for the lease to be reinstated, you must execute and return all copies of the enclosed amendment of lease terms increasing the lease rental and royalty rates, and you must submit \$625 to provide for the \$500 administrative fee and \$125 that are required to cover the cost of the publication of the proposed reinstatement of the lease in the Federal Register.

If the above requirements are not met within 30 days from receipt of this notice, a decision denying the petition for reinstatement will be issued and the leased lands will be subject to further leasing in accordance with the competitive procedures under 43 CFR Part 3120 in the absence of an appeal of the decision.

Authorized Officer

Enclosure

Amendment of Oil and Gas Lease Terms (in duplicate)

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Federal Register Notice of Proposed Class II

Oil and Gas Lease Reinstatement

(NOTE: Do NOT use letterhead stationery)

Billing Code: 4310-xx-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

State Office Identifier (XX-xxx-xx); (Lease serial number)

(Geographic State): Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease (Serial number) for lands in (Name) County, (State), was timely filed and was accompanied by all required rentals and royalties accruing from (Date), the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of (\$5 per acre OR \$10.00 per acre) or fraction thereof and 16% percent, respectively. The lessee has paid the required \$500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 USC 188), and the Bureau of Land Management is proposing to reinstate the lease effective (Date of lease termination), subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

For further information contact: (Name, Office, Telephone Number).

State Director/Authorized Officer

Date: _____

NOTE: 1" top margin
1½" left margin
1" right margin

Format for Letter of Notification of Proposed Class II
Lease Reinstatement to the Chairman of the Senate Committee on
Energy and Natural Resources



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

Honorable _____
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr./Madam Chairman:

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act, Public Law 97-451, enclosed is a copy of the Federal Register notice for the proposed reinstatement of oil and gas lease (Serial number), and other pertinent information.

Back rental has been paid at the rate of (\$5 per acre OR \$10 per acre) or fraction thereof. Currently, there is no production on this lease.
(NOTE: Modify this sentence as appropriate.)

Sincerely,

State Director

or

Authorized Officer

(NOTE: Select appropriate
signatory level for the
applicable State Office)

Enclosures

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Letter of Notification of Proposed Class II
Lease Reinstatement to the Chairman of the
House of Representatives Committee on Resources



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

3108 (Office Code)
Serial No.

Honorable _____
Chairman, Committee on Resources
House of Representatives
Washington, D.C. 20515

Dear Mr./Madam Chairman:

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act, Public Law 97-451, enclosed is a copy of the Federal Register notice for the proposed reinstatement of oil and gas lease (Serial number), and other pertinent information.

Back rental has been paid at the rate of (\$5 per acre OR \$10 per acre) fraction thereof. Currently, there is no production on this lease.
(NOTE: Modify this sentence as appropriate.)

Sincerely,

State Director

Authorized Officer

(NOTE: Select appropriate
signatory level for the
applicable State Office)

Enclosures

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Granting Class II Lease Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

	DECISION
Lessee/Address	:
	:
	:
	: Oil and Gas
	: Class II Reinstatement
	:

Class II Reinstatement Granted

Oil and gas lease (Serial number) terminated (Date), for failure to make timely payment of rental due.

All conditions and requirements for reinstatement of the lease under Title IV of the Federal Oil and Gas Royalty Management Act, Public Law 97-451 (30 U.S.C. 188 (d) and (e)), have been met. Accordingly, the lease is hereby reinstated under the amended lease terms required by that law.

The lessee's copy of the amendment containing the amended lease terms is enclosed. Please attach a copy of this decision and the amendment of lease terms to your copy of the lease so that your lease records are complete.

Authorized Officer

Enclosure

Amendment of Lease Terms (signed by both the lessee
and the authorized officer)

Distribution:

NOTE: If the Class II reinstated lease also is extended, modify the decision as follows:

1. Add a second subject line reading: Lease Extended
2. Add another sentence at the end of the second paragraph to read:
Under the provisions of the cited law, the lease also is hereby
extended through (Date).

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

(III.G.10)

Format for Accounting Advice Showing Earning of Rental

and MMS-DMD Information for Class II Lease Reinstatement

Form 1370-41
(March 1984)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICENO. 1420118⁰⁴

9/7/94

Subject: CLASS II REINSTATEMENT/REACTIVATION

Applicant: Harold E. Doe
12348 Maple Avenue
Boomtown, CA 94399

Remitter:

Assignor:

LEASE MANAGEMENT DATA										<input type="checkbox"/> NEW	<input checked="" type="checkbox"/> UPDATE	<input type="checkbox"/> PAYMENT
ORIGINAL SERIAL NO	ASG	TYPE	ST	CTY	FUND SYMBOL	ACRES UNITS	RATE					
CACA 44121		ON	P	04	029 14	5003	640.00	5.00				
AMOUNT	ANV DATE	EXP DATE	BILL CYC	ST	DISTRICT	NEXT BILL	MISC DATA	U of M	ACTUAL UNITS			
3200.00	2/1/89	1/31/99		E								
ASSIGNMENT SERIAL NO	ASG	TYPE	ST	CTY	FUND SYMBOL	ACRES UNITS	RATE					
AMOUNT	ANV DATE	EXP DATE	BILL CYC	ST	DISTRICT	NEXT BILL	MISC DATA	U of M	ACTUAL UNITS			
APPLY REMITTANCE												
ACTION	FUND SYMBOL	CTY	AMOUNT		Remarks: Petition for Class II Reinstatement granted. New rental rate is \$5.00 per acre or fraction thereof.							
FILING FEE												
RENTAL	145003	029	3200.00									
UNEARNED												
REFUND												
TOTAL			3200.00									
AMOUNT DUE												
<input type="checkbox"/> Lease in Escrow <input type="checkbox"/> KGS <input type="checkbox"/> Auto Escrow <input type="checkbox"/> Auto Renew					<input type="checkbox"/> of Interest <input type="checkbox"/> Operating Rights <input type="checkbox"/> Operator <input type="checkbox"/> Hold Forest							
BY <i>Line Honey</i> DATE 11/2/94 FOR MMS USE ONLY BILLER NUMBER FOREST REFUGE TR'S SECTION CODE												

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice Showing Earning of Administrative
Fee and Publication Costs for Class II Lease Reinstatement

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECEIPT AND ACCOUNTING ADVICE

NO. 1420116 04

1/11/95

Subject: CLASS II REINSTATEMENT

Applicant: Victor H. James
711 Easy Street
Boomtown, CA 99999

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
ORIGINAL SERIAL NO	ASG	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
CACA 56211									
AMOUNT	ANV. DATE	EXP. DATE	BILL. CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
ASSIGNMENT SERIAL NO	ASG	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
AMOUNT	ANV. DATE	EXP. DATE	BILL. CYC.	S.C.	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS

APPLY REMITTANCE			
ACTION	FUND SYMBOL	CTY	AMOUNT
FILING FEE			
RENTAL			
	14X5017/5700		625.00
UNEARNED			
REFUND			
TOTAL			625.00
AMOUNT DUE			

Remarks:

Apply administrative fee (\$500) and payment
for Federal Register publication cost (\$125).

BY:

Jane Honey

DATE 1/24/95

Lease in Escrow?
RGS?
Auto Escrow?
Auto Renew?

Of Interest?
Operating Rights?
Operator
Bored Forest?

FOR MMS USE ONLY

BILLER	NUMBER	FOREST REFUGE
FISC. SECTION		
UNIT		

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advices Showing Class I and Class

Reinstatements with A Lease Term Extension

Form 1370-41
(March 1984)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICENO. 1420175₀₄

Subject: REACTIVATION/CLASS I REINSTATEMENT/EXTENSION

Applicant: James Boswell
123 Any Street
Big Town, CA 96821

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
ORIGINAL SERIAL NO	ASG.	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
CACA 43298		OA P	04	029 14	5003	160.00	1.50 /		
							2.00		
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC	SC	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
240.00	10/1/89	9/30/95		E	CA 06				
ASSIGNMENT SERIAL NO	ASG.	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC	SC	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY	AMOUNT						
FILING FEE									
RENTAL									
UNEARNED									
REFUND									
TOTAL									
AMOUNT DUE									
Remarks:									
Class I reinstatement granted. Lease granted 1-year extension through 9/30/1995.									
Please apply 6th year rental of \$320 paid to MMS on 9/13/94.									
BY <i>Ruth Smiles</i> DATE: 12/6/94									
FOR MMS USE ONLY									
BILLEE					FOREST REFUGE				
NUMBER									
OCS SECTION									
CODE									
Lease in Escrow? <input type="checkbox"/> KGS? <input type="checkbox"/> Auto Escalates? <input checked="" type="checkbox"/> Auto Renew? <input type="checkbox"/> Of Interest? <input type="checkbox"/> Operating Rights? <input type="checkbox"/> Operator <input type="checkbox"/> Bond Forest? <input type="checkbox"/>									

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advices Showing Class I and Class II

Reinstatements with a Lease Term Extension

Form 1170-41
(March 1984)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICE

NO. 1420181 04

Subject: REACTIVATION/CLASS II REINSTATEMENT/EXTENSION

Applicant: Joe Doe Oil Co.
711 Easy Street
Boomtown, TX 78329

Remitter

Assignor

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASL	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
CACA 65481		ON P	04	029 14	5003	120.00	5.00		
AMOUNT	ANV DATE	EXP DATE	BILL CYC	S4	DISTRICT	NEXT BILL	MISC DATA	U of M	ACTUAL UNITS
1600.00	8/1/85	7/31/96		E	CA 06				
ASSIGNMENT SERIAL NO.	ASL	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
AMOUNT	ANV DATE	EXP DATE	BILL CYC	S4	DISTRICT	NEXT BILL	MISC DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY	AMOUNT						
FILING FEE									
RENTAL									
UNEARNED									
REFUND									
TOTAL									
AMOUNT DUE									
BY <i>Lueth Smiles</i> DATE 2/2/95 FOR MMS USE ONLY BILLER NUMBER FOREST REFUGE OCS SECTION CODE									
Lease in Escrow? KGS? Auto Escalates? Auto Renew? Off Interest? Operating Rights? Operator Bond Filed?									

Remarks:

Class II reinstatement granted.
 New rental rate is \$5/acre or fraction thereof.
 Lease granted 1-year extension through 7/31/96.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Notice for Additional Requirements for
Class III Oil and Gas Lease Reinstatement



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	NOTICE
:	:
:	:
:	Oil and Gas
:	:
:	:

Class III Reinstatement Conversion
Additional Requirements

Two unpatented oil placer mining claims were validly located prior to February 24, 1920. However, they were deemed conclusively abandoned for failure to file instruments in a timely manner as required by Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and they are currently producing oil. The statutory date of abandonment was (Date). Pursuant to Public Law 97-451, the Federal Oil and Gas Royalty Management Act, (Attorney-in-fact), on behalf of (Mining claim owner), has petitioned for conversion of the unpatented oil placer mining claims (Name) to a noncompetitive oil and gas lease.

As a condition to conversion to an oil and gas lease, you must agree in writing to the lease terms that are attached to this notice. Once this has been done, we are required to publish a notice of proposed conversion in the Federal Register. You are allowed 30 days in which to sign and return the enclosed Consent to Lease Terms.

Earlier, we requested production reports from you, and we received them from October 1979 through May 1983. Those reports were submitted to the Minerals Management Service (MMS), Royalty Management Program staff. The MMS had to estimate the price of oil per barrel based on these production reports. The MMS used \$32 per barrel from October 1979 through March 1981, and \$27 per barrel from April 1981 through May 1983. The approximate value of royalty due at 12½ percent, based on the MMS calculations, totals \$24,424.16. The MMS indicated that this was only an approximation, since royalties are normally calculated from sales volumes rather than production volumes, and the exact price at which the oil was sold was not available to the MMS.

In addition, we have calculated the rental (303.56 acres x \$5 per acre or fraction thereof) at \$1,520. Therefore, a total of \$25,944.16 of royalty and rental monies are due the Federal Government through May 1983. If you have different information from actual sales volumes, this total may be less. Further, additional information is required concerning production, sales, and sale prices from May 1983 to the present. After we receive the necessary information, the MMS will calculate the total monies due.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Notice or Additional Requirements for
Class III Oil and Gas Lease Reinstatement

2

To date, we have received \$6,475 from you. This is sufficient to cover the \$500 administrative fee and the \$125 cost of the Federal Register publication required prior to conversion of the claim to a noncompetitive oil and gas lease, and a portion of the back rental and royalty owed.

In order for the lease to be issued, the lease account must be paid in full up to the date of lease issuance. Upon payment of all monies due, and 30 days after publication of the Federal Register notice, we can issue the lease. The effective date of the lease is anticipated to be October 1, 1989.

In your petition for conversion, it is mentioned that the lands are within the (Name) Unit (a State Unit) containing 943.56 acres that was established November 6, 1982. Your request that the lease be subject to the existing (Name) Unit Agreement will be approved upon lease issuance. It will be subject to the stipulations included with the Consent to Lease Terms.

Remittance of \$_____ and execution of the enclosed Consent to Lease Terms (including Stipulation) must be received in this office within 30 days from receipt of this notice. Failure to meet this compliance period will result in a decision denying the petition for lease conversion, and the lands will be subject to leasing in accordance with the competitive lease procedures under 43 CFR Part 3120, in the absence of an appeal.

Authorized Officer

2 Enclosures

- 1 - Consent to Lease Terms
- 2 - Stipulations

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Federal Register Notice of Proposed Class III

Oil and Gas Lease Reinstatement

(NOTE: Do NOT use letterhead stationery)

Billing Code: 4310-xx-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

State Office Identifier (XX-xxx-xx); (Lease serial number)

(Geographic State): Proposed Conversion of Unpatented Oil Placer Mining Claim

(Name) to Noncompetitive Oil and Gas Lease

Pursuant to Sections 31 and 17(c) of the Mineral Leasing Act of 1920

(30 U.S.C. 188), as amended by Title IV of the Federal Oil and Gas Royalty

Management Act of 1982 (P.L. 97-451), a petition for conversion of an

unpatented oil placer mining claim has been timely filed. The proposed

noncompetitive lease has been assigned serial number (Number). The claim to

be converted is the (Name) unpatented oil placer mining claim located in

(County), (State). The description of the land is as follows:

(Legal land description).

This notice explains the reasons for the proposed conversion of the mining claim to a noncompetitive oil and gas lease. The unpatented oil placer mining claim was validly located prior to February 24, 1920, it is currently producing oil, and it was deemed conclusively abandoned for failure to timely file instruments as required by Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744). The statutory date of abandonment was December 30, 1987. (Lessee or attorney-in-fact's name), on behalf of itself and others, has petitioned for the conversion. When issued, the lease will be in the name of (Co-lessee names), et al.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Federal Register Notice of Proposed Class

Oil and Gas Lease Reinstatement

2

The lessees have agreed to (Number) special lease terms in addition to the standard lease terms of a noncompetitive oil and gas lease. They include:

(Describe lease stipulations)

The lessee has paid the required \$500 administrative fee and will reimburse the Department for the cost of this Federal Register notice. In addition, all back rental and royalty will be paid from (Date), current to the date the lease is issued.

Production reports have been submitted for the period from (Date) to (Date). The production during this period totaled (Number) barrels of oil. Royalty payment from (Date), current to the date the lease is issued, still must be submitted prior to lease issuance. Rental at \$5 per acre or fraction thereof per year is due in addition to royalty at the rate of 16% percent. Since the lessee has met all the requirements for conversion of the unpatented oil placer mining claim as set out in the laws referenced above, the Bureau of Land Management is proposing to issue lease (Serial number) effective (Date).

Authorized Officer

Dated:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Rescinding a Lease Cancellation Decision



DECISION

:
:
:

Oil and Gas

Lease Cancellation Decision Rescinded

By a decision dated (Date) , you were advised that part of the lands in your oil and gas lease (Serial number) were within a known geological structure, that the rental was increased, and a bond was required. The lease was cancelled by the above-dated decision for failure to furnish the required bond.

You protested and requested reconsideration of the cancellation. Our decision dismissing your protest and denying reconsideration was appealed to the Interior Board of Land Appeals.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Cancelling a Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	DECISION
	:
	:
	: Oil and Gas
	:
	:

Lease Cancelled

Your oil and gas lease offer was filed on (Date) subject to the terms of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), and was issued effective (Date). The lease is hereby cancelled because the lands are included in an oil and gas lease issued pursuant to a prior offer identified as (Serial number).

The Supreme Court recognizes that under the Secretary of the Interior's general power of management of public lands, the Secretary has the authority to rescind a lease that was erroneously issued, Boesche v. Udall, 373 U.S. 472 (1963).

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

In case of an appeal, the adverse party to be served with Notice of the Appeal, Statement of Reasons, etc., is (Name and address of lessee of prior lease).

Authorized Officer

Enclosure
Form 1842-1

Distribution:
MMS-DMD, Mail Stop 3110

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Recognizing Bona Fide Purchaser and
Cancelling Overriding Royalty Interest



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

DECISION

XYZ Corp.
P.O. Box 100
Anywhere, MT 59000

:
:

Oil and Gas

The Oil and Gas Co.
P.O. Box 2000
Billings, MT 59103

Bona Fide Purchaser Status Recognized
Overriding Royalty Interest Cancelled

XYZ Corp. was the priority applicant for Parcel (number) in the (Date) simultaneous oil and gas drawing. On (Date), oil and gas lease (Serial number) was issued to XYZ Corp. for this parcel, effective (Date). On (Date), XYZ Corp. executed an assignment of 100 percent record title interest in the lease to The Oil and Gas Co., with a 4 percent overriding royalty interest retained by XYZ Corp.

We have determined that violations of the regulations have occurred, as summarized below, establishing that the lease was obtained contrary to the regulations. A Report of Investigation, dated (Date), and retained under serial reference number (Number), more fully documents the details of these violations, and that report is hereby incorporated into and made a part of this decision.

As discussed in Sections III and IV of the report, XYZ Corp. and other groups filed on the same parcels. We have determined that this constitutes a multiple filing, in violation of regulations at 43 CFR 3112.2-1(f) (1982).

As discussed in Sections V and VI of the report, the address used by the XYZ Corp. group is effectively a mail drop for the ABC Corp. As such, its use constitutes a violation of the regulations at 43 CFR 3112.2-1(d) (1982), that prohibit an applicant from using the address of a filing service.

As discussed in Sections VII and VIII of the report, ABC Corp. failed to respond to a request for information from this office, in violation of regulations at 43 CFR 3102.5 (1982).

H-3108-1 -- RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Recognizing Bona Fide Purchaser and
Cancelling Overriding Royalty Interest

2

As discussed in Section XI of the report, the offer to lease was signed by a person not listed on the statement of parties-in-interest. This is a violation of the regulations at 43 CFR 3112.6-1(a) (effective August 22, 1983), that requires that offers to lease be signed by the prospective lessee or attorney-in-fact.

Although we have determined that the lease was obtained in violation of the regulations, we have also determined that The Oil and Gas Co. is a bona fide purchaser of this lease. Title 43 CFR 3112.6-3 in effect at the time of the (Date) filing stated in part, "action shall be taken to cancel the interest or lease unless the rights of bona fide purchaser, as provided for in 43 CFR 3108.3(c) of this title, intervene."

It has been established that a party purchasing an oil and gas lease from the first-drawn winner of a drawing of simultaneous offers to lease is a bona fide purchaser where prior to and during the time it agreed to purchase the lease, the BLM's files were silent as to any irregularities in the lease or offer, and the purchaser had no knowledge of any defect in the lease or offer. The lease file was noted on (Date), with possible cancellation of the lease.

In view of the above violations, and in accordance with the regulations at 43 CFR 3112.6-3 and 3108.3(c), the 4 percent overriding royalty interest retained by XYZ Corp. is hereby cancelled. The assignment to The Oil and Gas Co. has been approved subject to the cancellation of this overriding royalty interest, and an approved copy of the assignment is enclosed for your records.

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

Authorized Officer

2 Enclosures

- 1 - Form 1842-1
- 2 - Approved Assignment

Distribution:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Denying Record Title Assignment with
Bona fide Purchaser Status Not Recognized



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

DECISION

XYZ Corp.
P.O. Box 100
Anywhere, MT 59000

Oil and Gas

The Oil and Gas Co.
P.O. Box 2000
Billings, MT 59103

Record Title Assignment Denied
Bona Fide Purchaser Status Not Recognized

XYZ Corp. was the priority applicant for parcel (Number) in the March 1983 simultaneous oil and gas filing. On May 7, 1984, oil and gas lease (Serial number) was issued to XYZ Corp. for this parcel, effective June 1, 1984.

On March 20, 1985, XYZ Corp. executed an assignment of 100 percent record title interest in the lease to The Oil and Gas Co. The assignment was filed in this office on June 10, 1985.

Oil and gas lease (Serial number) has been cancelled in its entirety based on subpoenaed documents and an investigation conducted by the Bureau of Land Management. Sufficient evidence was provided to establish that the lease was obtained in violation of the regulations. A copy of the lease cancellation decision is enclosed.

The regulations at 43 CFR 3112.6-3 that were in effect at the time of the March 1983 filing stated, "... action will be taken to cancel the interest or lease unless the rights of a bona fide purchaser, as provided for in 3108.3(c) of this title, intervene. The government may take action to cancel regardless of whether information showing the application or offer was rejectable, is obtained, or was available before or after the lease was issued."

The Oil and Gas Co. is not recognized as a bona fide purchaser because on November 16, 1984, the lease file was noted with a Notice to Prospective Assignees regarding the investigation. The date the file was noted is considered the date constructive notice was given that the leases acquired by or through the services of ABC Corp. were subject to cancellation. This date was established as the determining factor, based on the decision of the Interior Board of Land Appeals, Richard W. Eckels, 65 IBLA 76 (1982).

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Decision Denying Record Title Assignment with

Bona Fide Purchaser Status Not Recognized

2

In accordance with the regulations 43 CFR 3112.6-3 and 3108.3(c), The Oil and Gas Co.'s request for approval of assignment is hereby denied.

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

Authorized Officer

2 Enclosures

- 1 - Lease Cancellation Decision
- 2 - Form 1842-1

Distribution:

NOTE: This illustration is referencing 1985 regulations.

Format for Decision Denying Waiver of Lease Rights



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

IN REPLY REFER TO

3108 (Office Code)
Serial No.

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Lessee/Address	DECISION	
	:	
	:	
	:	Oil and Gas
	:	
	:	

Waiver of Lease Rights Denied
Leases Terminated

On (Date), this office received a request for a waiver of lease rights under the provisions of the regulations at 43 CFR 3108.5, pending resolution of cancellation proceedings with an Appendix A attached to the request listing the oil and gas leases involved. The waiver requested suspension of the lease rental payment and the running of the lease term for each lease listed in the appendix effective (Date).

A review of the leases listed in the Appendix A has revealed that five of the oil and gas leases listed are no longer held by you, but have been assigned to bona fide purchasers who are responsible for the annual rental payments. Your company retained only overriding royalty interests when assigning the leases. Accordingly, the waiver of lease rights for the following leases is hereby denied.

<u>Serial Number</u>	<u>Lessee Name, Address</u>
----------------------	-----------------------------

The following oil and gas leases, also shown on Appendix A, terminated by operation of law for nonpayment of annual rental on or before the anniversary date, and cannot be considered for a waiver of lease rights.

(List lease serial numbers and termination dates)

This decision is final in the absence of an appeal.

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

Authorized Officer

Distribution:

Regional or Field Solicitor
Record Title Holders and Other Interest Holders of Involved Leases

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Format for Accounting Advice for Suspension of Lease
Due to Waiver of Lease Rights

Form 1370-41
(March 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECEIPT AND ACCOUNTING ADVICE

NO. 1420183 04

Subject: SUSPENSION OF LEASE TERM AND RENTAL/WAIVER OF LEASE RIGHTS

Applicant: Robert Symonds
3091 James Blvd.
Anywhere, AZ 91008

Remitter:

Assignor:

LEASE MANAGEMENT DATA									
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> PAYMENT									
ORIGINAL SERIAL NO.	ASG	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE		
CACA 43895		ON P	04	015 14	5003	20.00	1.30		
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC	S	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
120.00	9/1/92	99/99/9999		S	CA 03				
ASSIGNMENT SERIAL NO.									
ASG	TYPE	ST	CTY	FUND SYMBOL	ACRES/UNITS	RATE			
AMOUNT	ANV. DATE	EXP. DATE	BILL CYC	S	DISTRICT	NEXT BILL	MISC. DATA	U of M	ACTUAL UNITS
APPLY REMITTANCE									
ACTION	FUND SYMBOL	CTY	AMOUNT						
FILING FEE									
RENTAL									
UNEARNED									
REFUND									
TOTAL									
AMOUNT DUE									
Lease in Escrow* <input type="checkbox"/> RGS* <input type="checkbox"/> Auto Escalates* <input type="checkbox"/> Auto Renew*			Oil Interest* Operating Rights* Operating* Bond Fund*			Remarks: Waiver of lease rights granted during appeal of cancellation proceedings. Lease suspension effective 1/1/95. Rental payment is suspended.			
BY <i>Mari Stone</i> DATE 1/26/95									
FOR MMS USE ONLY									
BILLER		NUMBER		FOREST REFUGE					
OR'S SECTION		CODE							

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Montana State Office Decision Addressing Oil and Gas Lease
Termination, Class I and Class II Reinstatement Provisions,
and Rental and Royalty Reduction Requests



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

3108 (MT 922)
Serial No. SDM 43977

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

April 8, 1988

DECISION

J.R. Gas, Inc.
North Highway 85
Belle Fourche, South Dakota 57717

Oil and Gas

Steven Ruffatto, Esq.
Crowley, Haughey, Hanson,
Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
P.O. Box 2529
Billings, Montana 59103-2529

Oil and Gas Lease Terminated
Petition for Class I Reinstatement Denied
Additional Requirements for Class II Reinstatement
Request for Reduced Royalty and Rental Denied

Oil and Gas Lease SDM 43977 was issued effective September 1, 1979, and contained 2240.00 acres. Beginning with lease year September 1, 1984, rental was increased to \$2 per acre because part of the lands were included in a known geologic structure. On September 3, 1987, a partial rental payment in the amount of \$2800 was received at Minerals Management Service (MMS) accompanied by a letter dated August 30, 1987, stating that the leaseholder wished to drop all but 1400.00 acres of the lease. The MMS accepted the partial rental payment, classified it as timely, and forwarded the letter/partial relinquishment to the Bureau of Land Management (BLM). The partial relinquishment was received in BLM's Montana State Office on September 14, 1987.

The BLM issued a Decision on September 23, 1987, that the lease terminated September 1, 1987, for failure to pay the full amount of rental due on or before the anniversary date. The Decision also stated that the partial relinquishment could not be considered as an acceptable document because it was not received in the proper office until September 14, 1987, 13 days after the lease terminated. On October 27, 1987, this Decision was appealed. The case was then transmitted to the Interior Board of Land Appeals (IBLA). After the case was transmitted, in an affidavit received at BLM on November 24, 1987, the appellant indicated that the partial rental and partial relinquishment were both filed at MMS based on information provided by a BLM employee.

(NOTE: Cited regulation 43 CFR 3103.3-1(a)(ii) was renumbered 43 CFR 3103.3-1(a)(2).)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

2

On November 24, 1987, appellants filed a petition for a Class I reinstatement or, alternatively, a petition for a Class II reinstatement of the oil and gas lease with a request for reduction of royalty and rental. The petition was accompanied by the \$25 filing fee for a Class I reinstatement, the \$500 administrative fee for a Class II reinstatement, the \$130 publication charge, and additional rental in the amount of \$12,800. This office could not act on the petitions for reinstatement while the case was under jurisdiction of IBLA. Therefore, the case was remanded to this office for readjudication of the issue of lease termination and to issue a decision on the pending petitions for reinstatement. This Decision will address the four issues captioned above.

1. Lease Termination and Partial Relinquishment

A partial rental payment was received at MMS on September 3, 1987, accompanied by the lessee's letter dated August 30, 1987, indicating they wished to relinquish all but 1400.00 acres of oil and gas lease SDM 43977. The full amount of rental due on the lease was \$4480 (2240.00 acres at \$2 per acre). The amount of rental paid was \$2800. MMS accepted the partial payment, classified it as timely, and forwarded the partial relinquishment to this office. The partial relinquishment was received in this office on September 14, 1987.

As stated in 43 CFR 3108.2-1: Except as provided in paragraph (b) of this section, any lease on which there is no well capable of producing oil or gas in paying quantities, shall automatically terminate by operation of law (30 U.S.C. 188) if the lessee fails to pay the rental at the proper BLM office or the designated Service office, as appropriate, on or before the anniversary date of the lease.

Paragraph (b) of 43 CFR 3108.2-1 states that an oil and gas lease will not automatically terminate when an annual rental payment is deficient if the deficiency is nominal. A deficiency is nominal if it is not more than \$100 or 5 percent of the total payment due, whichever is less. Since the rental payment was deficient by more than the nominal amount, the lease automatically terminated by operation of law on September 1, 1987, for failure to pay the full amount of rental due on or before the anniversary date.

On the back of the lease form, item (4)(e) payments, it is stated: Unless otherwise directed by the Secretary of the Interior, to make rental, royalty, or other payments to the lessor, to the order of the Bureau of Land Management at the places mentioned in 43 CFR 3102.2. If there is no well on the leased lands capable of producing oil or gas in paying quantities, the failure to pay rental on or before the anniversary date shall automatically terminate the lease by operation of law.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

3

Title 43 CFR 3108.1 states that a lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment in the proper BLM office. It also states a relinquishment shall take effect on the date it is filed. Since the relinquishment was not received in the proper BLM office until September 14, 1987, it cannot be considered effective until September 14, 1987.

The IBLA ruled in its Decision B.J. Bradshaw, 79 IBLA 85 (1979), that an oil and gas lease on which there is no well capable of producing oil or gas in paying quantities will automatically terminate on the anniversary date of the lease upon failure of lessee to pay the minimum annual rental, despite a partial payment submitted on the basis of a partial relinquishment which was ineffective.

Based on the regulations and the IBLA Decision cited herein, we must hold that oil and gas lease SDM 43977 terminated as of September 1, 1987, for the reason that the full amount of the rental was not received on or before the anniversary date. The partial relinquishment had no effect since it was not filed in accordance with the regulations.

2. Petition for Class I Reinstatement

On November 24, 1987, this office received a petition for a Class I Reinstatement along with the required \$25 filing fee for oil and gas lease SDM 43977. Full rental was received in this office November 24, 1987.

In 43 CFR 3108.2-2 it is stated: The authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that; 1) such rental was paid or tendered within 20 days after the due date.

The IBLA ruled in its Decision Jerald A. Waters, 97 IBLA 150 (1980), that the Department of Interior has no authority to make a Class I Reinstatement of a terminated lease where rental payment is not paid or tendered within 20 days after the due date.

It is indicated in the petition that partial rental and a partial relinquishment were filed together at MMS as instructed by a BLM employee, and that "the question is whether petitioners were justified in relying upon this information and whether it can be said that they exercised reasonable diligence in ascertaining the proper procedure." In its Decision Monica V. Rowland, 90 IBLA 349 (1986), the IBLA ruled that even assuming that appellant could show that the failure to pay was justifiable or not due to a lack of reasonable diligence, Class I Reinstatement is unavailable to appellant because of her failure to pay the rental within 20 days after the anniversary date.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

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The IBLA stated in its Decision, Dominic D. Demicco, 92 IBLA (1986), . . . the statutory provisions for automatic termination of leases and the conditions required for their reinstatement have been clearly set forth by Congress, 30 U.S.C. 188 (1982). They have been further defined by the Department's regulations. It is well established that all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Title 44 U.S.C. 1507, (1982); . . . At best, appellant's failure to inform himself about this matter can be characterized as inadvertence. It does not constitute justification for making late payment within the meaning of 30 U.S.C. 188(c) (1982).

Three IBLA Decisions in which reinstatements were allowed were cited in the petition: (1) Joseph E. Steger, 20 IBLA 206 (1975), where an illegible courtesy notice was received from the BLM; (2) Richard L. Rosenthal, 45 IBLA 146 (1980), where the lease transmitted a check for rental to the wrong BLM office, which received the payment 14 days prior to the anniversary date, but took no action to either forward the check to the proper office or return it to the lessee until the anniversary date of the lease; and (3) in Nola Grace Ptasynski, 82 IBLA 48 (1984), the issue involved lands in a terminated lease which were offered under the simultaneous program, Ptasynski was the successful applicant in the drawing, and after the drawing, a decision was made to reinstate the terminated lease. The terminated lease was reinstated and Ptasynski was protesting the reinstatement. We are of the opinion that the three cases are irrelevant to the situation in SDM 43977.

The other three cases mentioned in the petition are relevant to this Decision, and in fact may support our Decision in the case at hand: PRM Exploration Co., 90 IBLA 63 (1985) headnote 2 states; Under 30 U.S.C. 188(c) (1982), the Department of the Interior has not authority to make a Class I reinstatement of a terminated oil and gas lease where the rental payment is not tendered at the proper office within 20 days after the due date.

In James and Lillian Chudnow, 86 IBLA 315 (1985), it was ruled: An oil and gas lease may be relinquished by filing a written relinquishment in the proper BLM office. A relinquishment is effective on the date of its filing with BLM. However, a partial relinquishment filed after the lease has automatically terminated by operation of law is ineffective. Where rental payment for an oil and gas lease with a June 1 anniversary date is postmarked May 31 and received in the proper office on June 5, under 43 CFR 3108.2-1(a) such action may constitute reasonable diligence for purposes of Class I reinstatement; however, where the payment is less than the full amount and the lessee fails to pay the full amount within 20 days after the anniversary date, Class I Reinstatement is precluded.

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Monty Cranston, Inc., 86 IBLA 322 (1985), also supports our Decision in the case at hand. One of the headnotices states that where the anniversary date of an oil and gas lease falls on a day when the proper office for payment is not open, a partial rental payment together with a partial relinquishment personally delivered to the proper state office on the next official working day serves to extend that part of the lease covered by the rental payment.

The petition for Class I Reinstatement of oil and gas lease SDM 43977 is hereby denied. The \$25 filing fee was earned upon receipt and cannot be refunded.

3. Petition for Class II Reinstatement

On November 24, 1987, this office received a petition for a Class II Reinstatement for oil and gas lease SDM 43977 which automatically terminated on September 1, 1987, for failure to pay the full amount of rental due. A partial rental payment was received at MMS on September 3, 1987, accompanied by the lessee's letter indicating he wished to relinquish all but 1400 acres of the lease. MMS accepted the partial payment and forwarded the partial relinquishment to this office. The partial relinquishment was received in this office on September 14, 1987. The petition indicates that partial rental and the partial relinquishment were filed together at MMS as instructed by a BLM employee, and requests that the lease be reinstated only as to the unrelinquished acreage. Full rental due was received in this office on November 24, 1987.

Title 43 CFR 3108.1 states that a lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment in the proper BLM office. It also states a relinquishment shall take effect on the date it is filed.

In its Decision B. J. Bradshaw, 44 IBLA 181 (1979), the IBLA ruled that an oil and gas lease on which there is no well capable of producing oil or gas in paying quantities will automatically terminate on the anniversary date of the lease upon failure of lessee to pay the minimum annual rental, despite a partial payment submitted on the basis of a partial relinquishment which was ineffective.

Title 43 CFR 3108.2-2(a) states: "The authorized officer may, if the requirements of this section are met, reinstate an oil and gas lease which was terminated by operation of law for failure to pay rental timely when the rental was not paid or tendered within 20 days of the termination date and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence, or no matter when the rental was paid, it is shown to the satisfaction of the authorized officer that such failure was inadvertent."

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The IBLA ruled in its Decision Dominic D. Demicco, 92 IBLA 378 (1986), . . . the statutory provisions for automatic termination of leases and the conditions required for their reinstatement have been clearly set forth by Congress, 30 U.S.C. 188 (1982). They have been further defined by the Department's regulations. It is well established that all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. 1507, 1510 (1982); . . . At best, appellant's failure to inform himself about this matter can be characterized as inadvertence. It does not constitute justification for making late payment within the meaning of 30 U.S.C. 188(c) (1982).

We are of the opinion that late payment was due to inadvertence and have determined that the lease may be considered for reinstatement under the provisions of Class II. However, since the partial relinquishment was not effective until September 14, 1987, 13 days after the date of automatic termination, the petition for Class II reinstatement is being considered for the entire acreage of the lease.

Even though the Class II reinstatement is being considered for the entire acreage of the lease, it needs to be pointed out that the relinquishment is effective as of September 14, 1987. In its Decision Roy W. Reed, 7 IBLA 321 (1972), the IBLA ruled that no action is required by the Secretary in connection with relinquishment. In fact, he is precluded from interfering with the voluntary act of the lessee. Thus, once a relinquishment is filed, there is nothing upon which the Secretary can act. Relinquishment is purely a unilateral act on the part of the lessee. It must be concluded that when a lessee files his relinquishment of an oil and gas lease in the appropriate land office, he exercises the right granted to him by section 30(b) of the Mineral Leasing Act; he voluntarily ends his lease relationship with the United States as of the date of the filing of the relinquishment.

In accordance with 43 CFR 3108.2-3, the petition included payment of all back rentals at the rate established for reinstatement under Class II provisions (\$7 per acre for the entire acreage of the lease), the \$500 administrative fee, and \$130 to cover the cost of publishing the proposed reinstatement in the Federal Register.

Title 43 CFR 3108.2-3(2) states that after determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if an agreement has been signed by the lessee and attached to and made a part of the lease specifying future rentals at the applicable rates specified for reinstated leases in 3103.2-2 of this title and future royalties at the rates set in 3103.3-1 of this title.

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Enclosed are two copies of "Oil and Gas Lease Amendment" showing the annual rental of \$7 per acre and the royalty rate of 16-2/3 percent which must be executed and returned to this office. Upon receipt of the executed Amendment forms, and following 30 days after the date of publication of proposed reinstatement in the Federal Register, a Decision will be issued reinstating the lease effective September 1, 1987.

If the signed Lease Amendment forms are not filed in this office within 30 days after receipt of this Decision, the petition for Class II reinstatement will be denied.

Once the lease has been reinstated as of September 1, 1987, we will process the partial relinquishment and the lands that will then remain in the lease will be 1400.00 acres.

4. Reduced Rental and Royalty Rates

On November 24, 1987, a petition for Class II Reinstatement was filed for terminated oil and gas lease SDM 43977. The petition included a request for reduced rental and royalty if the Class II Reinstatement is granted. There has been no production on the lands.

Title 43 CFR 3103.3-1(a) states the following royalty rates shall be paid in amount or value of the production removed or sold from the lease: (ii) 16-2/3 percent royalty on noncompetitive leases reinstated under 3108.2-3 of this title . . . Title 43 CFR 3108.2-3(2) states that after determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if: (iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future rentals at the applicable rates specified for reinstated leases in 3103.2-2 of this title and future royalties at the rates set in 3103.3-1 of this title for all production removed or sold from such lease . . . Title 43 CFR 3108.2-3(f) states that the authorized officer may . . . reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

The IBLA ruled in its Decision Gulf Oil Corp., 83 IBLA 289, that pursuant to sec. 401 of the Federal Oil and Gas Royalty Management Act of 1982, amending sec. 31 of the Mineral Leasing Act of 1920, 30 U.S.C. 188 (1982), the royalty rate imposed on a reinstated oil and gas lease may not be less than 16-2/3 percent unless the Secretary finds that there are uneconomic or other circumstances which could cause undue hardship or premature termination of production, or if in the Secretary's Judgement, it would be otherwise equitable to reduce the royalty rate. Where a lessee fails to provide credible evidence of such circumstances, a reduction in royalty

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rate below 16-2/3 percent is not justified. The Decision also states that Section 401 of the Federal Oil and Gas Royalty Management Act of 1982 provides the Secretary of the Interior with discretionary authority to reinstate terminated leases. Reinstated leases which were terminated for "inadvertent" failure to make timely rental payment shall be subject to the conditions contained in 30 U.S.C. 188(e) (1982). It is also stated that if Congress had intended to provide for a 12-1/2 percent royalty rate for reinstated leases which have not achieved production, it could have done so. But, Congress did not draw such a distinction. The legislative history of Federal Oil and Gas Royalty Management Act (FOGRMA) strongly supports the imposition of the 16-2/3 percent royalty rate on reinstated leases. The House report further discusses section 401 in detail as follows: Section 401(d) clearly establishes that any reinstatement of a terminated lease is entirely discretionary with the Secretary of the Interior. The Secretary need not reinstate any lease. He is provided with the discretionary authority to do so and may do so complying with certain minimum, but substantially increased, rental and royalty terms that pertain to any reinstated lease. The minimum 4 percent increase in royalty serves as a penalty, and therefore is an incentive for prompt rental payment. It also states that, in acting Title IV of Public Law 97-451, the Congress intended that former lessees and claimants who apply for reinstatement of terminated leases . . . should not be permitted to benefit, at the expense of both Federal and State Governments and the general public, from their own errors and/or acts of omission, and therefore the Congress specifically provided for increased rental and royalty payments effective from the date of termination . . . ; and That the Congress acted with one specific intent, viz. to require a substantially increased royalty payments from the date of termination . . . as consideration for reinstating a terminated oil and gas lease.

The purpose of granting a reduced royalty rate is to extend the productive life of an existing well. Normally it cannot be determined whether a lease can be successfully operated at the royalty rate fixed in the lease until the lease has been fully developed. Accordingly, applications for reduction of royalty are not in order until the productivity of the leasehold has been fully determined.

In order for a lease operation to be considered eligible for reduction of the royalty rate, the operating costs must equal or exceed production value, which is the total value of the lease products sold.

This office is of the opinion that the request for reduced rental and royalty rates does not contain sufficient evidence to determine there is or will be undue hardship. Therefore, the request for reduced rental and royalty rates is hereby denied.

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This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, Notice of Appeal must be filed in the Montana State Office at the above address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. As appellant you will have the burden of proving, by presenting positive and substantial evidence, where this Decision is in error. This Decision is final, absent an appeal.

/s/ Cynthia L. Embretson

Cynthia L. Embretson
Chief, Fluids Adjudication Section

2 Enclosures

- 1 - Oil and Gas Lease Amendment (1 p.)
- 2 - Appeal Information Sheet (1 p.)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Committee Resolution of the House of Representatives
Committee of Insular Affairs, Dated July 13, 1983,
Concerning Lease Reinstatements Under Public Law 97-451

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

COMMITTEE RESOLUTION

WHEREAS, the Congress of the United States enacted Title IV of Public Law 97-451 granting to the Secretary of the Interior discretionary authority, in the interest of equity, to reinstate, under specified terms and conditions, certain Federal oil and gas leases and to issue leases in lieu of certain unpatented oil placer mining claims that otherwise terminated by operation of law; and

WHEREAS, all legal right, title and interest of such former lessees and claimants to such former leases and claims had terminated; and

WHEREAS, by definition, any reinstatement of a terminated lease dates back to the date of its termination by operation of law and not to the date of any administrative action of the Secretary of the Interior approving such reinstatement (which administrative action may take place several years after actual termination of the former lease); and

WHEREAS, the Secretary of the Interior was without legal authority to reinstate such terminated leases or to issue leases in lieu of such claims prior to the enactment of Title IV of Public Law 97-451, such rights having been reserved to the Congress; and

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WHEREAS, some former lessees have petitioned for reinstatement and paid an amount which they believed to be due as back rental and royalty payments accruing from the date of termination, but said payments are less than the amounts required by Public Law 97-451; and

WHEREAS, in certain limited circumstances, such equitable relief appears justifiable in order to reinstate and extend the rights of affected former lessees and claimants; and

WHEREAS, the continued occupancy of any terminated lease has deprived the government of rental payments from the former lessee and/or any future lessee and all production from any such lease by the former lessee constitutes technical trespass; and

WHEREAS, the Congress specifically intended that, as consideration for reinstating any such terminated oil and gas leases or to issue leases in lieu of such oil placer mining claims, affected former lessees and claimants should be required to pay substantially increased rental and royalty payments and should not be unjustly enriched due to their own inadvertence, oversight or negligence in failing to comply with the law and should not receive the same terms and conditions as would apply if the former leases and claims had not terminated; and

WHEREAS, such former lessees and claimants could voluntarily accept or reject the opportunity for reinstatement of the terminated leases or to have leases issued in lieu of claims at the increased rental and royalty rates; and

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WHEREAS, there has been some uncertainty expressed about the intent of Congress with respect to the date of application of the increased rental and royalty provisions of Title IV of said Act;

NOW, THEREFORE, BE IT RESOLVED by the Committee on Interior and Insular of the United States House of Representatives,

That, in enacting Title IV of Public Law 97-451, the Congress intended that former lessees and claimants who apply for reinstatement of terminated leases or to have leases issued in lieu of such claims pursuant to Title IV of that Act should not be permitted to benefit, at the expense of both Federal and State Governments and the general public, from their own errors and/or acts of omission, and therefore the Congress specifically provided for increased rental and royalty payments effective from the date of termination or abandonment of any former lease or claim; and

That the Congress acted with one specific intent, viz. to require a substantially increased rental payment from the date of termination or abandonment and substantially increased royalty payments on all production made subsequent to the date of termination or abandonment as consideration for reinstating either a terminated oil and gas lease or to issue a lease in lieu of an unpatented oil placer mining claim, and the provisions of Public Law 97-451 related thereto were specifically and deliberately separated

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and developed in recognition of their distinctly different legal characteristics; and

That, when the Secretary of the Interior exercises his discretionary authority to reinstate any former leases under Public Law 97-451, the provisions of section 401(e) of Title IV of Public Law 97-451 with regard to the increased rental and royalty terms for a reinstated competitive or noncompetitive lease issued pursuant to section 17(b) or section 17(c) require that payment of back rentals and royalties be equal to the amounts which are established as minimum future rentals and royalties for each such reinstated lease and should include such terms in, and as a part of, any reinstated lease prior to its execution; and


That the Secretary of the Interior should take cognizance of, and be guided by, the language of the report, numbered U.S. House of Representatives 97-859, pages 40 through 42, which specifically states that it is the intent of the Congress that any reinstatement of a terminated lease is entirely discretionary with the Secretary of the Interior; that there are no maximum rental and royalty terms on a reinstated lease; the rental and royalty rate of a reinstated competitive lease issued pursuant to section 17(b) shall be not less than \$10 per acre per year rental and royalty of not less than 16-2/3 percent computed

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on a sliding scale based upon the average production per well day, at a rate which shall be not less than 4 percentage points greater than the existing competitive royalty schedule, and that the rental and royalty rate for a noncompetitive lease issued pursuant to section 17(c) shall be not less than \$5 per acre per year rental and not less than 16-2/3 percent royalty on production; and

That, upon adoption of this resolution by the Committee on Interior and Insular Affairs of the United States House of Representatives, the Chairman shall transmit a copy thereof to the Secretary of the Interior.



MORRIS K. UDALL, Chairman

Adopted July 13, 1983

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Reference List of IBLA Decisions Concerning Lease Relinquishments,
Terminations, Reinstatements, Cancellations, and
Bona Fide Purchaser Provisions

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September 12, 1994 - Bernard S. White 130 IBLA 324)
Oil and Gas Leases: Reinstatement

A petition for class I reinstatement of an oil and gas lease terminated by failure to timely pay rental was properly denied when the lessee sought to justify late payment by showing inefficient handling of his rental payment by the Postal Service; having chosen the means for delivery of payment, the lessee was required to bear the consequence of delayed delivery and irregular handling of the payment envelope by his chosen passenger. TERMINATION -
MAIL DELAY BY
POSTAL SERVICE

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April 28, 1994 - Marian L. Kleiner (129 IBLA 216)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A class I petition for reinstatement of an oil and gas lease is properly granted where the record on appeal supports the lessee's claim of illness and demonstrates the requisite proximity and causality to justify the late payment of rental. REINSTATEMENT
ILLNESS

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January 21, 1993 - Gilbert & Bonnie Sockwell (125 IBLA 150)
November 4, 1992 - Petro-Hunt Corp. (124 IBLA 318)
Oil and Gas Leases: Reinstatement

A petition for class I reinstatement of an oil and gas lease is properly denied where the rental payment was received by BLM after the anniversary date, and the lessee, having paid the rental within 20 days following the lease anniversary date, fails to establish that the failure to pay the rental on the anniversary date was justified or not due to a lack of reasonable diligence. TERMINATION -
LATE PAYMENT

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December 29, 1992 - High Plains Petroleum Corp. (125 IBLA 24)
Oil and Gas Leases: Cancellation

An oil and gas lease is properly cancelled where it was inadvertently issued in violation of the regulatory requirement to conform use authorizations to the approved RMP for lands officially designated as an area of critical environmental concern, with a prescription for no leasing because the area contains several Federally listed endangered and threatened plant species.

CANCELLATION -
LEASE IMPROPERLY
ISSUED IN A
NO LEASING AREA

March 11, 1992 - Andrew HeLal (122 IBLA 325)
Oil and Gas Leases: Termination

Under sec. 31(b) of the Mineral Leasing Act, as amended, oil and gas leases are subject to automatic termination by operation of law for failure to pay the annual rental in advance by the lease anniversary date. 30 U.S.C. 188(b) (1988). The automatic termination provision does not apply to rental charges becoming due at a time other than the anniversary date due to the termination of a suspension of the lease.

TERMINATION -
NOT APPLICABLE
WHEN RENT DUE AT
A TIME OTHER
THAN LEASE
ANNIVERSARY DATE

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July 30, 1991 - Sybil W. Taylor (120 IBLA 193)
Oil and Gas Leases: Termination--Oil and Gas Leases
Reinstatement

Where a noncompetitive oil and gas lessee fails to pay annual rental on or before the anniversary date of the lease and no oil or gas is being produced on the lease, the lease automatically terminates by operation of law. BLM may reinstate the lease pursuant to 43 CFR 3108.2-2(a) if the full rental is paid within 20 days of the lease anniversary date, and the failure to timely pay was justifiable or not due to a lack of reasonable diligence. Where BLM approves an assignment of record title in an oil and gas lease to a party on May 12, well in advance of the June 1 anniversary date of the lease, lessee's assertion that she was unable to ascertain whether the assignment had been approved and where to mail the rental payment does not establish that the failure to pay rental timely was justified where she admits that she knew of the approval on or prior to the due date for the payment.

TERMINATION -
ASSIGNED LEASE

A late payment of rental may not be justified on the basis that the lessee did not receive a courtesy notice from MMS
(continued)

COURTESY NOTICE

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The provisions of 43 CFR 3108.2-2(a) recognize as reasonable diligence the mailing of rental payment to MMS on or before its due date and direct BLM to consider the postmark date in determining when the payment was mailed. This provision tacitly requires that a rental payment must be timely mailed to MMS in such a manner that it has a reasonable chance of being received there. Where a lessee mails the payment to MMS in an envelope bearing no street address, city, state, or zip code, the payment had no chance of being received by MMS, and the lessee's actions do not constitute reasonable diligence in timely making the rental payment.

TERMINATION -
FAILURE TO
PROPERLY
ADDRESS RENTAL
PAYMENT ENVELOPE

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March 14, 1991 - Petrolex 84-1 Limited (118 IBLA 372)
Oil and Gas Leases: Termination--Oil and Gas Leases:
Bona Fide Purchaser

30 U.S.C. 188(b) and 43 CFR 3108.2-1(b) require that a notice of deficiency be sent by the Secretary to an oil and gas lessee whose rental payment is paid on or before the anniversary date of the lease but in an amount nominally deficient. Where the regulation requires that this notice be served by certified mail, return receipt requested, it is not unreasonable to look to the party asserting delivery to produce positive proof of such event, e.g., by producing a signed return receipt card.

TERMINATION -
PROOF OF
CERTIFIED NOTICE
OF NOMINAL
DEFICIENCY
REQUIRED

A bona fide purchaser who is the assignee of a lease describing lands unavailable for lease is not entitled to the protection offered by 30 U.S.C. 184(h)(2) (1988) and 43 CFR 3108.4.

BONA FIDE
PURCHASER -
INTERESTS NOT
PROTECTED

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January 15, 1991 - Suzanne Walsh (117 IBLA 267)
Oil and Gas Leases: Cancellation

An oil and gas lease which was improperly issued because title to the land embraced by the lease was vested in the State of Oklahoma is properly cancelled by the Bureau of Land Management pursuant to 43 CFR 3108.3(d) (1988), when the leasehold does not contain a well capable of production of oil or gas in paying quantities, and is not committed to an approved cooperative or unit plan or communitization agreement.

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR
NONFEDERAL LANDS

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October 22, 1990 - Paul D. Lieb, Pardee Petroleum Corp.,
Ralph W. M. Keating (116 IBLA 279)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination--Oil and Gas Leases: Rentals

BLM has no authority to grant Class I reinstatement of an oil and gas lease under 30 U.S.C. 188(c) (1988), if the rental amount is not submitted within 20 days after the anniversary date.

TERMINATION
LATE PAYMENT

Cashing a late rental check for an oil and gas lease and depositing the funds in an unearned account does not constitute acceptance of rental payment or reinstate a terminated oil and gas lease.

RENTAL PAYMENT
PUT IN UNEARNED
ACCOUNT NOT
ACCEPTED AS
RENT PAYMENT

September 5, 1990 - Interior Reserves Corp. et al.
(116 IBLA 73)

Oil and Gas Leases: Assignments or Transfers--Oil and Gas
Leases: Reinstatement--Oil and Gas Leases: Rental--Oil and
Gas Leases: Termination

A noncompetitive oil and gas lease on which there is no well capable of producing oil or gas in paying quantities automatically terminates by operation of law upon failure of a lessee to pay the full amount of the rental due on or before the anniversary date of the lease. However, a partial assignment of record title to acreage in a Federal oil and gas lease, filed by a qualified assignee prior to the lease anniversary date, may be approved where the annual rental for the segregated acreage in the assignment was tendered prior to the anniversary date, even though the base lease terminated for nonpayment of the full lease rental on the anniversary date of the lease.

TERMINATION -
FULL RENTAL FOR
BASE LEASE NOT
PAID, BUT RENTAL
FOR PARTIAL
ASSIGNMENT WAS
PAID PRIOR TO
ANNIVERSARY DATE

In the absence of a clear indication that it is intended for the preservation of a specific parcel or parcels, a partial payment of rental should be attributed to the leasehold generally. Such partial payment by an unapproved assignor may not be used to preserve the interests of parcels held by unapproved assignees in the absence of a clear indication that it was intended to be used to do so.

PARTIAL RENTAL
PAYMENTS
ATTRIBUTABLE
TO LEASEHOLD
GENERALLY

(continued)

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An unapproved assignor may not rely on BLM's approval of the assignment prior to the anniversary date in determining whether to submit rental for the entire leasehold. That is, where the assignor apparently submits less than full rental in the expectation that BLM would approve a pending assignment prior to the anniversary date (thereby reducing the rental due to be paid) he bears the risk that the assignment will not be approved prior to the anniversary date and that less than the full amount will be timely paid by the assignor and assignees.

UNAPPROVED
ASSIGNMENT
AT TIME OF
ANNIVERSARY
DATE WITH LESS
THAN FULL RENTAL
RENTAL PAYMENT
FOR BASE LEASE

Where the assignment of an oil and gas lease is pending before BLM, the assignor remains responsible for the performance of all obligations under the lease until the assignment has been approved, and BLM's failure to approve an assignment by the date the rental is due does not obviate the requirement the rental for the entire leasehold be paid on or before the anniversary date of the lease. The obligation to pay annual rental exists without regard to the fact that assignments of lease interests are pending, even though the assignments may ultimately be made effective retroactively to a date prior to the anniversary date.

FULL RENTAL FOR
BASE LEASE DUE
REGARDLESS
OF PENDING
ASSIGNMENTS
THAT MAY BE
APPROVED WITH
EFFECTIVE DATES
PRIOR TO LEASE
ANNIVERSARY DATE

Where the record titleholder of an oil and gas lease fails to request reinstatement within the time allowed, reinstatement is not authorized under governing statutory and regulatory provisions, and the termination of the lease becomes final. BLM must refuse to approve any pending assignments, as there is no lease interest left to be assigned.

LESSEE/RECORD
TITLEHOLDER
IS ONLY PARTY
ELIGIBLE TO
PETITION FOR
REINSTATEMENT

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June 28, 1990 - Burton/Hawks, Inc. (115 IBLA 143)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Pursuant to 30 U.S.C. 188(b) (1982), when a lessee fails to pay the required rental on or before the anniversary date of a lease on which there is no well capable of producing oil and gas in paying quantities, the lease automatically terminates by operation of law. The Secretary may reinstate the lease, pursuant to 30 U.S.C. 188(c) (1982), if the full rental is paid within 20 days of the lease anniversary date and the lessee can show that the failure to timely pay was either not due to a lack of reasonable diligence or was justifiable.

TERMINATION -
UNSIGNED CHECK

(continued)

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An unsigned check is not a negotiable instrument pursuant to the Uniform Commercial Code and where such a check is submitted to MMS in payment of the annual rental for an oil and gas lease such submission does not constitute timely payment within the meaning of 30 U.S.C. 188(b) (1982). MMS has no affirmative obligation to attempt to negotiate an unsigned check since, by definition, such an unsigned check is not a negotiable instrument.

UNSIGNED CHECK
IS NOT A
NEGOTIABLE
INSTRUMENT - MMS
IS NOT OBLIGATED
TO ATTEMPT TO
NEGOTIATE

April 17, 1990 - Jase O. Norsworthy et al. (114 IBLA 96)
Oil and Gas Leases: Cancellation--Oil and Gas Leases:
Overriding Royalties

Under 43 CFR 3108.3 (1987), BLM lacks the power to administratively cancel any oil and gas lease or interest therein that is in production.

CANCELLATION -
ADMINISTRATIVE
CANCELLATION OF
PRODUCING LEASE
NOT ALLOWED

April 10, 1990 - William F. Corkran (114 IBLA 76)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases: Termination

For class II reinstatement, the lessee must tender the back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement within 60 days from the date of receipt of the Notice of Termination. Submission of back rental that is deficient may only be cured during the 60-day period allowed for filing for reinstatement.

REINSTATEMENT
BACK RENTAL

March 27, 1990 - Elaine Wolf (113 IBLA 364)
Oil and Gas Leases: Cancellation

The Secretary of the Interior has the authority to cancel any oil and gas lease issued contrary to law or regulation because of the inadvertence of his subordinates. Where an oil and gas lease offer should have been rejected because it failed to comply with applicable regulations, a lease based on such an offer is properly cancelled.

CANCELLATION -
LEASE IMPROPERLY
ISSUED UNDER
REGULATIONS

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

February 14, 1990 - Sandra Lewis (113 IBLA 174)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A decision denying a petition for reinstatement of a noncompetitive oil and gas lease filed pursuant to 30 U.S.C. 188(c) (1982), will be reversed on appeal where appellant has established that she was ill at the time the payment was due, and that such illness was the proximate cause of the late payment.

REINSTATEMENT -
ILLNESS WAS
CAUSE FOR
TERMINATION

June 5, 1989 - Joan Chorney (On Reconsideration) (109 IBLA 96)

Oil and Gas Leases: Cancellation

A decision to cancel an oil and gas lease will be affirmed on appeal to the extent it is shown that the lease was issued through administrative error for lands within a wilderness study area which the Department was barred by statute from leasing for oil and gas. The statutory protection afforded bona fide purchaser of a lease under 30 U.S.C. 184(h)(2) (1982), does not bar cancellation of a lease erroneously issued for lands which the Department was prohibited from leasing by act of Congress.

CANCELLATION -
LEASE IMPROPERLY
ISSUED ON LANDS
NOT OPEN BY LAW
TO LEASING

April 24, 1989 - Mallon Oil Co., et al. (108 IBLA 241)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Royalties--Oil and Gas Leases: Termination

BLM may, in accordance with 43 CFR 3108.2-3(f) reduce the royalty rate for a reinstated lease in three separate circumstances: (1) where it finds undue hardship or premature termination of production would result; (2) where a lessee has expended funds to develop the lease, after the rental was due and not paid, on the basis of any written action of the United States, its agents or employees, which preceded the expenditure of those funds and was a major consideration in their expenditure; or (3) where it finds it is equitable to do so for any other reason.
(continued)

REINSTATEMENT -
ROYALTY RATE
REDUCTION

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Where an oil and gas lessee requests, in accordance with 30 U.S.C. 188(i)(2) (1982), and 43 CFR 3108.2-3(f), reduction of the increased royalty rate upon reinstatement of its lease on the basis that a written action by BLM preceded and was a major consideration in its expenditure of funds to develop the lands covered by the lease after the rental became due and was not paid, that request is properly denied when the record shows that although the lessee received a letter from BLM after the anniversary date of the lease, that letter did not precede and was not a major consideration in the lessee's expenditure of funds to develop the lands covered by the lease.

REINSTATEMENT -
ROYALTY RATE
REDUCTION DENIED

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March 22, 1989 - Clarence Souser (108 IBLA 59)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

Reinstatement of a terminated oil and gas lease pursuant to 30 U.S.C. 188(c) (1982), requires a showing by the lessee that the late rental payment was either justifiable or not due to a lack of reasonable diligence. Mailing the rental payment after the due date is not reasonable diligence. The complexity of the lessee's business affairs will not justify a late payment.

TERMINATION -
MAILED AFTER
DUE DATE

BLM's cashing a late rental check and depositing it in an unearned account does not constitute acceptance of rental payment or a determination that a terminated oil and gas lease will be reinstated.

RENTAL PAYMENT
PUT IN UNEARNED
ACCOUNT NOT
ACCEPTED AS
RENT PAYMENT

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March 21, 1989 - Henry Y. Yoshino (108 IBLA 47)
Oil and Gas Leases: Assignments or Transfers--Oil and Gas
Leases: Rental--Oil and Gas Leases: Termination

A rental payment for an oil and gas lease sent to the wrong office does not constitute proper tender of rental. BLM is required to terminate an oil and gas lease for failure to pay rental timely, and properly looks to the lessee of record for such payment. The assignee of an oil and gas lease, however, may tender payment while approval of the assignment is pending.

TERMINATION -
RENTAL PAYMENT
SENT TO WRONG
OFFICE BY
PENDING ASSIGNEE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

October 17, 1988 - Atlantic Richfield Co. (105 IBLA 61)
Oil and Gas Leases: Cancellation

Where a Federal oil and gas lease has issued covering land which has been patented with no mineral reservation to the United States in the patent, the oil and gas lease is properly canceled as to such land.

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR
PATENTED LANDS

Under the over-the-counter noncompetitive leasing system, no offer to lease public domain lands could include acquired lands. Where it was subsequently shown that acquired lands were leased pursuant to a lease offer for public domain lands, the lease is properly canceled as to the acquired lands.

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR
PUBLIC DOMAIN
AND ACQUIRED
LANDS

August 10, 1988 - Raymond H. Keeve (103 IBLA 352)
Oil and Gas Leases: Termination

A petition for reinstatement of a noncompetitive oil and gas lease filed pursuant to sec. 31(c) of the Mineral Leasing Act, as amended, 30 U.S.C. 188(c) (1982), is properly denied where the payment was mailed to BLM after the anniversary due date and the lessee has not demonstrated that the misplacement of files during a business move or an illness asserted as justification for late payment is the proximate cause of late payment.

TERMINATION -
LATE PAYMENT
DUE TO BUSINESS
MOVE OR ILLNESS
NOT JUSTIFIABLE

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July 25, 1988 - Clayton W. Williams, Jr., Exxon Corp.
(103 IBLA 192)
Oil and Gas Leases: Bona Fide Purchaser

Where, at the time of lease issuance, BLM's records pertaining to the lease revealed no indication that the lease has been issued in violation of the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (1982), but rather indicated that sufficient and proper analysis of potential environmental impacts had been completed prior to lease issuance, reliance by an assignee of the lease on the BLM decision to issue the lease is not unreasonable and will support assignee's claim of bona fide purchaser status.

BONA FIDE
PURCHASER -
NO VIOLATION
OF NEPA IN
LEASE ISSUANCE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

June 3, 1988 - Energy Research Associates, Inc. (102 IBLA 329)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A terminated oil and gas lease may be reinstated pursuant to 30 U.S.C. 188(c), if the full rental is paid within 20 days after the lease anniversary date, provided failure to pay timely was justifiable and not due to a lack of reasonable diligence. Termination for failure to make timely payment occurs despite possession by BLM, in another lease account, of sufficient money to cover the missed payment. Failure of the lessee to make payment within 20 days of the lease anniversary forecloses reinstatement pursuant to 30 U.S.C. 188(c), where, prior to termination, the lessee has neither directed BLM to transfer funds to cover payment of the annual rental payment nor indicated that it seeks to use funds from another lease account to pay the annual lease rental.	TERMINATION - SUFFICIENT MONEY IN ANOTHER LEASE ACCOUNT CANNOT BE USED TO COVER MISSED RENTAL PAYMENT
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March 17, 1988 - Robert L. True (d.b.a. Comanche Enterprises),
Petroleum Research Corp., et al., SATELLITE 8303116
(101 IBLA 320)

Oil and Gas Leases: Bona Fide Purchaser

To qualify for protection as a bona fide purchaser under 30 U.S.C. 184(h)(2) (1982), and 43 CFR 3108.4, an assignee must have acquired his interest in good faith, for valuable consideration, and without notice of any violation of the law. Bona fide purchaser protection applies only where consideration has actually been paid prior to actual or constructive notice of an outstanding interest or defect in title.	BONA FIDE PURCHASER - ACTUAL OR CONSTRUCTIVE NOTICE
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Where a money market account is established to secure the consideration paid by assignee, and where it is agreed that the consideration paid will be held until approval of assignment (which event never occurs), the assignee is not entitled to protection as a bona fide purchaser.	BONA FIDE PURCHASER - INTEREST NOT PROTECTED
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A "remote purchaser" of an oil and gas lease interest is one who purchases such interest from a bona fide purchaser of the lease. Where it is determined that the seller of the lease interest is not a bona fide purchaser, the buyer is not entitled to the protection afforded to a remote purchaser. (continued)	REMOTE PURCHASER DEFINITION
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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Where purchasers of an interest in an oil and gas lease enter into assignment agreements after BLM places notice of the possible cancellation of the lease in its official records, the purchasers have constructive notice of possible defects in the lease at the time they acquire their lease interests and, therefore, lack the good faith essential to an entitlement to protection as bona fide purchasers.

BONA FIDE
PURCHASER -
CONSTRUCTIVE
NOTICE PRECLUDES
PROTECTION

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March 17, 1988 - Hanes M. Dawson, Don F. Hugus, Jr.

(101 IBLA 315)

Oil and Gas Leases: Cancellation

The Secretary of the Interior has the authority to cancel any oil and gas lease issued contrary to law because of the inadvertence of his subordinates. Where oil and gas leases were inadvertently issued for lands that have been designated by Congress as wilderness before issuance of the lease, the Bureau of Land Management properly cancels the lease as to those lands.

CANCELLATION -
LEASE IMPROPERLY
ISSUED AFTER
LANDS DESIGNATED
AS WILDERNESS

The protection afforded by 30 U.S.C. 184(h)(2) (1982), to a bona fide purchaser of an oil and gas lease applied only where the predecessors-in-interest were in violation of some provision of the Act, such as the acreage limitations. It does not apply where the lease was erroneously issued for lands not subject to leasing.

BONA FIDE
PURCHASER -
INTEREST NOT
PROTECTED

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January 27, 1988 - R. Gerald Jones 101 IBLA 57)

Oil and Gas Leases: Reinstatement

The back rental due when filing a petition for class II reinstatement is determined at the increased rates accruing from the date of termination. The increased rates are the rates which will apply if class II reinstatement is granted: a minimum of \$5 per acre for nonproducing [noncompetitive] leases and \$10 per acre for producing [competitive] leases.

REINSTATEMENT -
BACK RENTAL DUE
AT INCREASED
RATE

Neither 30 U.S.C. 188(d)-(e) (1982), nor 43 CFR 3108.2-3, expressly require that fees for administrative costs and costs of publication in the Federal Register be submitted when a petition for class II reinstatement is filed or within the time limitation for filing a petition.

REINSTATEMENT -
TIME FRAME FOR
SUBMITTAL OF
REQUIRED FEES

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

October 21, 1987 - Champlin Petroleum Co. (99 IBLA 278)
Oil and Gas Leases: Cancellation

It is improper to cancel an oil and gas lease where BLM had previously approved the assignment of the lease, the assignees were bona fide purchasers, and it has not been shown that the lease was issued in violation of any statutory or regulatory provision.

CANCELLATION -
IMPROPER TO
CANCEL LEASE IF
NO VIOLATIONS BY
LEASE ISSUANCE

August 11, 1987 - Mobil Producing Texas and New Mexico, Inc.
(99 IBLA 5)
Oil and Gas Leases: Extensions--Oil and Gas Leases:
Termination

Extension of an oil and gas lease by reason of drilling over the expiration date of the lease requires that drilling operations be ongoing on the expiration date and be conducted in the manner in which someone seriously looking for oil or gas in that area could be expected to proceed. A decision holding a lease to have expired will be affirmed where the well on the lease was abandoned prior to the lease expiration date, notwithstanding the lessee's intent to drill an additional well.

TERMINATION -
WELL ABANDONED
PRIOR TO LEASE
EXPIRATION DATE

August 11, 1987 - Sue A. Hartman (99 IBLA 1)
Oil and Gas Leases: Rentals--Oil and Gas Leases:
Reinstatement--Oil and Gas Leases: Termination

Where a tender of payment of the rental for an oil and gas lease more than 5 months before the anniversary date was promptly returned to the lessee with an explanation that it was a duplicate payment for the present lease year and a reminder of the next anniversary date by which rent is due, a decision holding the lease to have terminated by operation of law and denying a petition for reinstatement under 30 U.S.C. 188(c) (1982) (class I) will be affirmed if the rental payment is not received thereafter until more than 20 days after the anniversary date.

TERMINATION -
PAYMENT DUE
TIMELY DESPITE
RETURN OF MONIES
WITH MESSAGE OF
DUPLICATE
PAYMENT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 31, 1987 - Suzanne Walsh (98 IBLA 363)

Oil and Gas Leases: Cancellation

Where it is shown that an oil and gas lease which improperly issued embraces lands presently known to contain valuable deposits of oil or gas, the Department may not, consistent with 43 CFR 3108.3(c) (1984), administratively cancel such lease, but must commence suit in Federal district court to obtain a judicial cancellation of the lease.

CANCELLATION
JUDICIAL
PROCEEDINGS

July 20, 1987 - William R. Barthold (98 IBLA 293)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

The Secretary of the Interior may reinstate a terminated oil and gas lease pursuant to 30 U.S.C. 188(c) (1982), if the full rental payment is paid within 20 days of the lease anniversary date, and the failure to pay timely was justifiable or not due to a lack of reasonable diligence. Under 43 CFR 3108.2-1(a) [1986], a remittance postmarked by the U.S. Postal Service on or before the anniversary date and received in the proper office no later than 20 days after such anniversary date is timely filed. However, that regulation does not alter the anniversary date and where the rental payment arrives within that time period, but in an envelope postmarked after the anniversary date, even though the anniversary date fell on a day on which the proper office to received payment was closed, the lessee did not exercise reasonable diligence.

TERMINATION -
POSTMARK AFTER
ANNIVERSARY DATE

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April 29, 1987- Landmark Exploration Co. (97 IBLA 96)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas
Leases: Termination

The provision of 30 U.S.C. 184(h)(2) (1982) protecting the interests of bona fide purchasers from certain action by the Department to cancel an oil and gas lease is not applicable to expiration of a lease by operation of law under 30 U.S.C. 226 (1982).

BONA FIDE
PURCHASER -
LEASE EXPIRATION
PROVIDES NO
PROTECTION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 14, 1987 - Lyman J. Ipsen et al. (96 IBLA 398)

Oil and Gas Leases: Assignments or Transfers--Oil and Gas
Leases: Rentals--Oil and Gas Leases: Termination

A decision disallowing a pending partial assignment of an oil and gas lease will be affirmed where, prior to approval of the partial assignment, the lease had terminated automatically by operation of law for failure to pay the annual rental on or before the lease anniversary date and the assignee had not tendered the rental for the lands described in the partial assignment prior to the anniversary date.

TERMINATION -
ASSIGNMENT FILED
WITH NO RENTAL
TENDERED PRIOR
TO ANNIVERSARY
DATE

While a potential assignee of an oil and gas lease may pay the annual rental, BLM is under no obligation to give the potential assignee a courtesy notice of rental due prior to the lease anniversary date.

TERMINATION -
NO OBLIGATION
FOR A COURTESY
BILLING NOTICE

January 12, 1987 - Sun Exploration & Production Co.
(95 IBLA 140)

Oil and Gas Leases: Cancellation

BLM must cancel a noncompetitive oil and gas lease of acquired lands where the lessee failed to fully pay the first year's advance rental at the time of submission of his lease offer, in accordance with 43 CFR 3103.3-1 (1979), the deficiency was more than 10 percent and a subsequent lease offer was filed by a qualified third party.

CANCELLATION -
MORE THAN
NOMINAL RENTAL
DEFICIENCY AND
A PENDING JUNIOR
OFFER

October 30, 1986 - Stanley I. Okun, Alan L. Schwartzberg
(94 IBLA 197)

Oil and Gas Leases: Assignments or Transfers--Oil and Gas
Leases: Reinstatement

Where a proposed assignment of an oil and gas lease has not been approved by BLM and the lease has automatically terminated by operation of law for failure to pay rental timely, only the original lessee as holder of record of the lease, and not the potential assignee, may petition to have the lease reinstated pursuant to 30 U.S.C. 188(c),(d), and (e) (1982).

REINSTATEMENT -
PETITION FROM
LESSEE REQUIRED
AND NOT FROM
POTENTIAL
ASSIGNEE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

October 23, 1986 - Jerald A. Waters (94 IBLA 150)
 Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
 Rentals--Oil and Gas Leases: Termination--Payments:
 Generally--Words and Phrases

An oil and gas lease on which there is no well capable of producing oil or gas in paying quantities automatically terminated by operation of law if the lessee fails to pay the annual rental on or before the anniversary date of the lease. 30 U.S.C. 188(b) (1982). Under 30 U.S.C. 188(c) (1982), the Dept. of the Interior has no authority to make a Class I Reinstatement of a terminated oil and gas lease where the rental payment is not paid or tendered at the proper office within 20 days after the due date.

TERMINATION -
 NO PAYMENT
 WITHIN 20 DAYS
 AFTER THE
 ANNIVERSARY DATE

"Tender." Placing a check for annual rental for oil and gas leases in the mails does not constitute a tender of payment within the meaning of 43 CFR 3108.2-2(a)(1). A tender of rental payment is made only when payment is received by the proper office administering the lease, providing that office the opportunity either to accept or decline payment. Accordingly, placing rental in the mails does not constitute a tender of payment which would allow the Department to consider the merits of a petition for a Class I reinstatement of an oil and gas lease.

DEFINITION OF
 "TENDER"

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September 25, 1986 - Larremore Petroleum Partnership
 (94 IBLA 30)
 Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
 Termination

A petition for reinstatement of noncompetitive oil and gas leases filed pursuant to sec. 31(c) of the Mineral Leasing Act, as amended, 30 U.S.C. 188(c) (1982), is properly denied where the payments were mailed to BLM after the lease anniversary dates and the illness asserted as justification for late payments is not substantiated as being the proximate cause of the late payments.

TERMINATION -
 ILLNESS NOT
 JUSTIFIABLE FOR
 LATE PAYMENTS

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 8, 1986 - Dominic D. Demicco (92 IBLA 378)

Oil and Gas Leases: Reinstatement

Congress has enacted two provisions for reinstating a noncompetitive oil and gas lease which has automatically terminated by operation of law pursuant to 30 U.S.C. 188(b) (1982) for failure to pay the rental timely. In order to qualify for Class I reinstatement under 30 U.S.C. 188(c) (1982), the rental must be tendered within 20 days of the anniversary date and the lessee must establish that failure to pay on time was either justifiable or not due to a lack of reasonable diligence. If failure to make timely payment was inadvertent, the lease may be eligible only for a Class II reinstatement pursuant to 30 U.S.C. 188(d) (1982). A lessee who was unaware that his lease would terminate if he did not mail his payment before the anniversary date has neither acted with reasonable diligence nor established that his failure to make timely payment was justifiable.

REINSTATEMENT -
UNAWARE OF
AUTOMATIC
TERMINATION
PROVISION OF LAW

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July 22, 1986 - Paul J. and Lyda R. Stivers (93 IBLA 97)

Oil and Gas Leases: Reinstatement

A lease automatically terminated by operation of law pursuant to 30 U.S.C. 188(b) (1982) may be reinstated pursuant to 30 U.S.C. 188(c) if the lease rental has been paid within 20 days of the lease's anniversary date and the failure to timely pay was justifiable or not due to a lack of reasonable diligence. Inability to pay is not, in itself, a justifiable reason for failing to make timely payment.

TERMINATION -
INABILITY TO
PAY RENTAL

July 16, 1986 - Neal Hunter (93 IBLA 80)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Pursuant to 30 U.S.C. 188(b) (1982), when the lessee fails to pay the required rental on or before the anniversary date of the lease, and no oil and gas is being produced on the leased premises, the lease shall automatically terminate by operation of law. The Secretary may reinstate the lease, pursuant to 30 U.S.C. 188(c) (1982), if the full rental is paid within 20 days of the lease anniversary date, and the failure to timely pay was justifiable or not due to a lack of reasonable diligence.
(continued)

TERMINATION -
AUTOMATIC BY
OPERATION OF LAW
FOR FAILURE TO
PAY ANNUAL
RENTAL TIMELY

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Late payment of annual rental may be considered justifiable if the untimeliness was proximately caused by extenuating circumstances outside the lessee's control at or near the anniversary date. A lessee's failure to timely pay rental is not justifiable where the rental payment was returned by the U.S. Postal Service as undeliverable because the address on the envelope was unreadable. Appellant must bear the consequences of the Postal Service's inability to timely deliver the rental payment. Mailing the rental payment after the anniversary date does not constitute reasonable diligence.

TERMINATION -
UNREADABLE
ADDRESS TO
POSTAL SERVICE
NOT CAUSE FOR
EXTENUATING
CIRCUMSTANCE
OUTSIDE LESSEE
CONTROL

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June 25, 1986 - James Darby (92 IBLA 231)

Administrative Procedure: Generally--Notice: Constructive
Notice--Oil and Gas Leases: Assignments or Transfers--Oil
and Gas Leases: Reinstatement--Rules of Practice: Generally

A document sent certified mail by BLM to a person at his last address of record is considered to have been constructively served on that person at the time of return by the Postal Service of the undelivered certified letter, and such constructive service is equivalent in legal effect to actual service of the document. An oil and gas lessee's last address of record is that stated on the lease application form, unless the lessee has filed written notice of a change of address with the issuing BLM office. Thus, the time for filing a petition for reinstatement of a terminated oil and gas lease begins on the date the notice of termination was returned to BLM as undeliverable after it was sent to the lessee's last address of record, and expires 60 days later.

REINSTATEMENT -
TIME OF FILING
PETITION WHEN
TERMINATION
NOTICE RETURNED
UNDELIVERABLE
TO LAST ADDRESS
OF RECORD

Where the record title holder of an oil and gas lease fails to request reinstatement within 60 days of constructive service of a notice of termination of the lease, reinstatement is not authorized under governing statutory and regulatory provisions, and the termination of the lease becomes final.

REINSTATEMENT -
LESSEE/RECORD
TITLE HOLDER
IS ONLY PARTY
ELIGIBLE TO
FILE PETITION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 29, 1986 - Oscar D. Graham (91 IBLA 394)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination--Payments:
Generally--Words and Phrases

An oil and gas lease on which there is no well capable of producing oil or gas in paying quantities automatically terminates by operation of law if the lessee fails to pay the annual rental on or before the anniversary date of the lease. 30 U.S.C. 188(b) (1982). Under 30 U.S.C. 188(c) (1982), the Dept. of the Interior has no authority to make a Class I Reinstatement of a terminated oil and gas lease where the rental payment is not tendered at the proper office within 20 days after the due date.

TERMINATION -
NO PAYMENT
WITHIN 20 DAYS
AFTER LEASE
ANNIVERSARY
DATE

"Tender." Placing a check for annual rental for oil and gas leases in the mails does not constitute a tender of payment within the meaning of 43 CFR 3108.2-1(c). A tender of payment is made only when a lessee submits payment to the BLM office administering his lease, providing BLM with the opportunity either to receive or decline payment. Accordingly, placing rental in the mails does not constitute a tender of payment which would allow the Dept. to consider the merits of a petition for a Class I Reinstatement of an oil and gas lease.

DEFINITION OF
"TENDER"

Reinstatement of a terminated noncompetitive oil and gas lease under sec. 401 of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 188(d), (e) (1982), requires payment by the lessee of rental at the rate of \$5 per acre as well as reimbursement of administrative costs (up to \$500) and the cost of publishing notice in the Federal Register.

REINSTATEMENT
INCREASED RENT
AND FEES
REQUIRED FOR
CLASS II

April 17, 1986 - Nancy Wohl (91 IBLA 327)

Oil and Gas Leases: Termination

Where an oil and gas lessee's annual rental payment was postmarked on the Monday following the anniversary date of the lease which fell on the preceding Sunday, the payment was not timely under the provisions of 43 CFR 3108.2-1(a), even though, under the regulation, the lease payment could have been timely received by BLM on the Monday upon which payment was postmarked. Mailing was not made the equivalent of actual payment nor was the anniversary date of the lease changed by the regulation, which permits payment on the next day following a lease anniversary when the office where payment is to be made is closed on the anniversary date.

TERMINATION -
POSTMARK ON
MONDAY AFTER
ANNIVERSARY DATE
OVER WEEKEND

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

February 26, 1986 - Monica V. Rowland (90 IBLA 349)
Oil and Gas Leases: Termination

Under 30 U.S.C. 188(c), BLM has no authority to reinstate a noncompetitive oil and gas lease terminated automatically for nonpayment of annual rental where the rental payment was not tendered at the proper office within 20 days after the anniversary date.

TERMINATION -
LATE PAYMENT

BLM may properly condition class II reinstatement under 30 U.S.C 188(d) and (e) (1982), of a noncompetitive oil and gas lease terminated automatically for nonpayment of annual rental upon tender of the required back rental, computed at the increased rate of \$5 per acre set forth in 30 U.S.C. 188(e)(2) (1982), within 60 days after receipt of a notice of termination.

REINSTATEMENT -
BACK RENTAL
PAYMENT WITHIN
60 DAYS OF
RECEIPT OF
TERMINATION
NOTICE

February 10, 1986 - Howard H. Vinson et al. (90 IBLA 280)
Oil and Gas Leases: Reinstatement

Where the record title holder of an oil and gas lease has made numerous assignments of interests in that lease, none of which has been approved by BLM, and the lease terminates by operation of law for failure to pay rental timely, only the record titleholder, and not any of the holders of unapproved assignments, may successfully petition for reinstatement of the lease pursuant to 30 U.S.C. 188(c) or (d) (1982). The right to petition for reinstatement is personal to the record titleholder of the lease.

REINSTATEMENT -
LESSEE/RECORD
TITLE HOLDER
IS ONLY PARTY
ELIGIBLE TO
FILE PETITION
(NOT POTENTIAL
ASSIGNEE)

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December 10, 1985 - PRM Exploration Co. (90 IBLA 63)
Oil and Gas Leases: Rentals--Oil and Gas Leases:
Termination

Under 30 U.S.C. 188(c) (1982), the Department of the Interior has no authority to make a class I reinstatement of a terminated oil and gas lease where the rental payment is not tendered at the proper office within 20 days after the due date.

REINSTATEMENT -
CLASS I NOT
ALLOWABLE IF
RENTAL NOT PAID
WITHIN 20 DAYS
AFTER DUE DATE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

August 28, 1985 - L & B Land Lease Group 82-3 (88 IBLA 221)
Oil and Gas Leases: Cancellation

The Secretary of the Interior has the authority to cancel any oil and gas lease issued contrary to law because of the inadvertence of his subordinates.

CANCELLATION -
LEASE IMPROPERLY
ISSUED

Where an oil and gas lease has inadvertently been issued for land that was the subject of a then current lease in good standing, the later lease is properly canceled to the extent that it conflicts with the earlier lease.

NEW LEASE
CANCELLED FOR
LANDS ALREADY IN
EXISTING LEASE

May 16, 1985 - Monty Cranston, Inc. (86 IBLA 322)
Oil and Gas Leases: Relinquishment

Where the anniversary date of an oil and gas lease falls on a day when the proper office for payment is not open, a partial rental payment together with a partial relinquishment personally delivered to the proper state office on the next official working day serves to extend that part of the lease covered by the rental payment. A BLM decision finding such a lease to have terminated for failure to pay the full amount of the rental must be reversed.

RELINQUISHMENT -
PARTIAL RENTAL
PAYMENT FILED
WITH PARTIAL
RELINQUISHMENT
ON NEXT OFFICIAL
WORK DAY AFTER
ANNIVERSARY DATE

May 14, 1985 - James and Lillian Chudnow (86 IBLA 315)
Oil and Gas Leases: Relinquishment--Oil and Gas Leases:
Termination

An oil and gas lease may be relinquished by filing a written relinquishment in the proper BLM office. A relinquishment is effective on the date of its filing with BLM. However, a partial relinquishment filed after the lease has automatically terminated by operation of law is ineffective.

RELINQUISHMENT
PARTIAL FILED
AFTER LEASE
TERMINATION IS
INEFFECTIVE

Where rental payment for an oil and gas lease with a June 1 anniversary date is postmarked May 31 and received in the proper office on June 5, under 43 CFR 3108.2-1(a) such action may constitute reasonable diligence for purposes of class I reinstatement; however, where the payment is less than the full amount and the lessee fails to pay the full amount within 20 days after the anniversary date, class I reinstatement is precluded.

TERMINATION -
RENTAL PAYMENT
OF LESS THAN
FULL AMOUNT
AND REMAINDER
NOT PAID WITHIN
20 DAYS AFTER
ANNIVERSARY DATE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 3, 1985 - Dena F. Collins (86 IBLA 32)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

In order to qualify for Class II reinstatement, the lessee must establish that the failure to timely pay was inadvertent. An inadvertent act involves carelessness, oversight, mistake, or the failure to pay careful and prudent attention to a situation. A lessee's failure to timely pay rental is not inadvertent where the lessee was merely financially unable to pay the rental when due.

REINSTATEMENT -
INADVERTENCE AS
REASON FOR
FAILURE TO PAY
RENTAL TIMELY

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March 13, 1985 - Lee Oil Properties, Inc. et al. (85 IBLA 287)

Oil and Gas Leases: Bona Fide Purchaser

The protection afforded by 30 U.S.C. 184(h)(2) (1982), to a bona fide purchaser of an oil and gas lease which issued noncompetitively applies only where the predecessors-in-interest were in violation of some provision of the Act, such as the acreage limitations. It does not apply where the lease was erroneously issued for lands not subject to noncompetitive leasing.

BONA FIDE
PURCHASER -
PROTECTION NOT
APPLICABLE FOR
LEASE ISSUED
ERRONEOUSLY

Where the assignee of an oil and gas lease is chargeable with actual or constructive knowledge of the fact that the lease improperly issued, the assignee may not assert bona fide purchaser status pursuant to 30 U.S.C. 184(h)(2) (1982).

BONA FIDE
PURCHASER -
ACTUAL OR
CONSTRUCTIVE
NOTICE

December 27, 1984 - James P. Felt (84 IBLA 205)

Oil and Gas Leases: Termination

Under 30 U.S.C. 188(c) (1982), a lease terminated automatically for late payment of annual rental may be reinstated upon receipt of a petition for reinstatement showing that reasonable diligence was exercised or that the failure to pay timely was justifiable. In the absence of such proof, e.g., where the lessee mailed the payment after the lease anniversary date as a result of an oversight, the petition for reinstatement is properly denied.

TERMINATION -
LATE PAYMENT DUE
TO OVERSIGHT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

November 15, 1984 - American Mineral Leasing, Inc. (83 IBLA 372)

Oil and Gas Leases: Cancellation

BLM must cancel a noncompetitive oil and gas lease erroneously issued to a party other than the first-qualified offeror, where the lease was issued while that offeror's prior lease offer was pending on appeal before the Board and the offeror was ultimately determined to be qualified to receive a lease.

CANCELLATION -
LEASE IMPROPERLY
ISSUED WHERE
SENIOR OFFEROR
RULED BY IBLA TO
BE QUALIFIED TO
RECEIVE LEASE

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October 25, 1984 - Gulf Oil Corp. (83 IBLA 289)

Oil and Gas Leases: Generally--Oil and Gas Leases:

Noncompetitive Leases--Oil and Gas Leases: Reinstatement--

Oil and Gas Leases: Termination

Pursuant to sec. 401 of the Federal Oil and Gas Royalty Management Act of 1982, amending sec. 31 of the Mineral Leasing Act of 1920, 30 U.S.C. 188 (1982), the royalty rate imposed on a reinstated oil and gas lease may not be less than 16-2/3 percent unless the Secretary finds that there are uneconomic or other circumstances which could cause undue hardship or premature termination of production, or if in the Secretary's judgment, it would be otherwise equitable to reduce the royalty rate. Where a lessee fails to provide credible evidence of such circumstances, a reduction in the royalty rate below 16-2/3 percent is not justified.

REINSTATEMENT
ROYALTY RATE
REDUCTION

Section 401 of the Federal Oil and Gas Royalty Management Act of 1982 provides the Secretary of the Interior with discretionary authority to reinstate terminated leases. Reinstated leases which were terminated for "inadvertent" failure to make timely rental payment shall be subject to the conditions contained in 30 U.S.C. 188(e) (1982).

REINSTATEMENT -
FAILURE TO PAY
RENT INADVERTENT

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October 9, 1984 - Joseph J. C. Paine (83 IBLA 145)

Board of Land Appeals--Oil and Gas Leases: Reinstatement--

Oil and Gas Leases: Termination--Regulations: Force and Effect as Law--Secretary of the Interior

BLM does not have the authority to reinstate a noncompetitive oil and gas lease which expired at the end of its 2-year extended term because of lack of production in paying quantities.

(continued)

REINSTATEMENT -
NO AUTHORITY TO
REINSTATE AT END
OF 2-YEAR
EXTENDED TERM

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

<p>A duly promulgated Departmental regulation has the force and effect of law and is binding upon all officials of the Department, including the Board of Land Appeals and the Secretary, and may not be waived.</p>	<p>REGULATIONS CANNOT BE WAIVED BY THE BLM/SECRETARY</p>
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September 13, 1984 - Navajo Tribe of Indians (82 IBLA 387)
Oil and Gas Leases: Cancellation

<p>Where an oil and gas lease has been issued for lands which have been withdrawn from the public domain by Executive Order for Indian purposes, the lease must be canceled. The Secretary of the Interior has the authority to cancel any oil and gas lease which is issued contrary to law.</p>	<p>CANCELLATION - LEASE IMPROPERLY ISSUED FOR INDIAN LANDS</p>
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August 20, 1984 - Leo M. Krenzler (82 IBLA 205)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

<p>When the lessee fails to pay rentals on or before the anniversary date of the lease, where no oil or gas is being produced in paying quantities on the leased premises, then the lease shall automatically terminate by operation of law; however, if the full rental amount has been paid within 20 days of the lease anniversary date, and the failure was justifiable or not due to a lack of reasonable diligence, then the Secretary may reinstate the lease.</p>	<p>TERMINATION - LATE PAYMENT WITHIN 20 DAYS AFTER LEASE ANNIVERSARY DATE</p>
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<p>Late payment of an annual rental may be considered justifiable if the untimeliness was proximately caused by circumstances outside the lessee's control at or near the anniversary date of the lease; however, travel does not ordinarily prevent a person from making payment or arranging for others to make payment in his absence.</p>	<p>TRAVEL NOT JUSTIFIABLE REASON FOR LATE RENTAL PAYMENT</p>
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<p>Neither the bulk nor the complexity of an individual or a corporate lessee's business organization constitutes adequate justification for a late payment, and the Board cannot conclude that a late payment is justified when the lessee neglects to order his business affairs so that his lease rental is paid on time. (continued)</p>	<p>NEGLECT OF BUSINESS AFFAIRS NOT JUSTIFIABLE REASON FOR LATE RENTAL PAYMENT</p>
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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

In order to show that a late payment was not due to lack of reasonable diligence, a lessee must ordinarily show that payment was made sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the mail. Mailing the payment one day after it is due does not constitute reasonable diligence.

PAYMENT A DAY
AFTER DUE DATE
FAILS TO
CONSTITUTE
REASONABLE
DILIGENCE

July 24, 1984 - John F. Clifton (82 IBLA 126)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination--Payments: Generally

The Secretary may reinstate leases terminated on or after January 12, 1983, if certain conditions are met and a petition for reinstatement plus required back rentals are filed the earlier of 60 days after lessee has received notice of termination or 15 months after lease termination. The submission of a rental check which is later dishonored by the drawee bank because of insufficient funds is neither a payment nor a tender of payment.

TERMINATION -
CHECK LATER
DISHONORED FOR
INSUFFICIENT
FUNDS IS NOT
A TENDER OF
PAYMENT

July 16, 1984 - Kurt W. Mikat (82 IBLA 71)

Oil and Gas Leases: Reinstatement

BLM properly denies a petition for reinstatement of a noncompetitive oil and gas lease, which terminated automatically after Jan. 12, 1983, for failure to pay the annual rental on or before the lease anniversary date, under sec. 401 of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 188(d), (e) (1982), where the lessee did not submit the required back rental within 60 days after receipt of a notice of termination, computed at the increased rate of \$5 per acre set forth in 30 U.S.C. 188(e)(2).

REINSTATEMENT -
BACK RENTAL
MUST BE
SUBMITTED WITHIN
60 DAYS AFTER
RECEIPT OF
TERMINATION
NOTICE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 11, 1984 - Nola Grace Ptasynski (82 IBLA 48)

Oil and Gas Leases: Rentals--Oil and Gas Leases:

Reinstatement--Oil and Gas Leases: Termination

The first-qualified applicant for an oil and gas lease acquires no vested right to have a lease issued to him but only a right to be preferred over other applicants if a lease is to be issued and his application may be rejected if it is determined that a previously terminated lease including the lands sought for leasing should be reinstated under sec. 401 of the Federal Oil and Gas Royalty Management Act, P.L. 97-451, 96 Stat. 2447, which amended sec. 31 of the Mineral Leasing Act of 1920, 30 U.S.C. 188 (1982).

REINSTATEMENT -
PREVIOUSLY
TERMINATED LEASE
INCLUDING LANDS
SOUGHT FOR LEASE
REINSTATED AND
OFFEROR HAD NO
VESTED RIGHT TO
A LEASE

Sec. 401 of the Federal Oil and Gas Royalty Management Act, P.L. 97-451, 96 Stat. 2447, amending sec. 31 of the Mineral Leasing Act of 1920, 30 U.S.C. 188 (1982), affords an additional opportunity to reinstate a lease terminated by operation of law where it is shown to the satisfaction of the Secretary that failure to timely pay the rental was inadvertent, provided certain criteria are met.

REINSTATEMENT -
CLASS II
PROVISIONS

While the assignee of an oil and gas lease may not exercise any control or dominion over the lease prior to approval of the assignment, the assignee is not precluded from paying the annual rental in an effort to avoid termination of the lease or to qualify the lease for reinstatement upon petition by the lessee of record.

ASSIGNEE MAY
PAY ANNUAL RENT
TO AVOID LEASE
TERMINATION OR
TO QUALIFY
LEASE FOR
REINSTATEMENT

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June 6, 1984 - William F. Branscome (81 IBLA 235)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:

Termination

The holder of a noncompetitive oil and gas lease terminated by operation of law for failure to pay the annual rental timely is not entitled to reinstatement of his lease pursuant to section 31(c) of the Mineral Leasing Act, as amended, 30 U.S.C. 188(c) (1982), where the late payment was mailed to BLM after the lease anniversary date and the lessee presents no evidence in support of the assertion that the reason for the late payment was illness at or near the lease anniversary date.

TERMINATION -
LATE PAYMENT
AND ILLNESS AT
OR NEAR LEASE
ANNIVERSARY DATE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

May 31, 1984 - Larry W. Ferguson (81 IBLA 167)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Reinstatement of a terminated oil and gas lease pursuant to 30 U.S.C. 188(c) (1982) requires a showing by the lessee that the late rental payment was either justifiable or not due to a lack of reasonable diligence. Mailing the rental payment after the due date is not reasonable diligence. Neither reliance on a courtesy notice nor the complexity of the lessee's business affairs will justify a late payment.

TERMINATION -
LATE PAYMENT
NOT JUSTIFIED
BY RELIANCE ON
COURTESY NOTICE
AND COMPLEX
BUSINESS AFFAIRS

Where a lessee files a petition for reinstatement of a terminated oil and gas lease in response to notification of his rights to petition for reinstatement under 30 U.S.C. 188(c) (1982) and 30 U.S.C. 188(d) and BLM denies reinstatement only on the basis of noncompliance with the former statutory provision, the case will be remanded to BLM for consideration of reinstatement under the latter provision.

REINSTATEMENT -
REVIEW PETITION
UNDER ALL
STATUTORY
PROVISIONS
AVAILABLE

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March 28, 1984 - Horace H. Alvord IV (80 IBLA 49)

Oil and Gas Leases: Cancellation

Where a noncompetitive oil and gas lease erroneously reflects a lesser mineral interest in federally owned lands than is actually held by the United States, but where the lease has not been issued in contravention of any regulatory or statutory authority, it need not be canceled, but may be amended to reflect that all of the available Federal interest in the land has, in fact, been leased.

CANCELLATION -
LEASE ISSUED
WITH A LESSER
MINERAL INTEREST
INCORRECTLY
INDICATED CAN BE
AMENDED RATHER
THAN CANCELED

February 29, 1984 - Davis Oil Co. (79 IBLA 218)

Federal Employees and Officers: Authority to Bind
Government--Oil and Gas Leases: Reinstatement--Oil and Gas
Leases: Termination

To justify failure to pay annual rental of an oil and gas lease so as to entitle appellant to reinstatement of lease pursuant to 30 U.S.C. 188(c) (1976), the failure to make timely payment must be caused by factors beyond the control of the lessee. Where the record establishes that the lessee failed to send the rental payment in a timely fashion for unexplained reasons, and then failed to discover the missed payment until nearly 1 year later, there is no justification for the failure to make timely payment which will permit reinstatement.

TERMINATION -
LATE PAYMENT

.(continued)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

A lease terminated by operation of law for failure to make timely payment can be reinstated upon proof of reasonable diligence in attempting to make payment or a showing that failure to make timely payment was justifiable, or, under certain circumstances, in the case of inadvertent failure to pay. Where appellant did not offer to pay annual rent due on Sept. 1, 1982, until Aug. 24, 1983, and offered no proof of circumstances to justify nonpayment on the due date, the record fails to support the reinstatement of an oil and gas lease pursuant to any provision of 30 U.S.C. 188 (1976) as amended.

LATE PAYMENT
DISCOVERED
NEARLY A
YEAR LATER

Neither the doctrine of equitable estoppel nor substantial fairness is available to offer appellant relief where reliance upon those doctrines is predicated upon circumstances which indicate appellant merely failed to make timely payment through its own neglect. The existence of a cover letter indicating a payment was sent where it subsequently appears there was no payment attached to the letter as shown, is insufficient alone to place the burden upon the Government to either establish it did not receive payment, or alternatively, to explain why it did not notify appellant of the apparent omission of payment from its letter.

RECEIPT OF
RENTAL PAYMENT
UNCERTAIN

February 23, 1984 - Anthony F. Hovey (79 IBLA 148)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Under 30 U.S.C. 188(c) (1976), a lease terminated automatically for untimely payment of annual rental may be reinstated only upon proof that reasonable diligence was exercised or that lack of diligence was justifiable. In the absence of such proof, a petition for reinstatement is properly denied.

TERMINATION -
LATE PAYMENT

Reasonable diligence ordinarily requires mailing payment sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the mail. Mailing a rental payment after it is due does not constitute reasonable diligence.

REASONABLE
DILIGENCE

Untimely payment of the annual rental may be justifiable if proximately caused by extenuating circumstances outside the lessee's control which occurred at or near the anniversary date of the lease. Being away from the office on business does not establish that late rental payment was justifiable.

JUSTIFIABLE
CIRCUMSTANCES
DO NOT INCLUDE
BEING AWAY
FROM OFFICE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

February 13, 1984 - Arthur M. Solender, Lynn Devereaux
(79 IBLA 70)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination--Words and Phrases.

Under 30 U.S.C. 188(c) (1976), a lease terminated automatically for untimely payment of annual rental may be reinstated where the rental is paid within 20 days and upon receipt of a petition for reinstatement showing that reasonable diligence was exercised or that the failure to make timely payment was justifiable. In the absence of such proof, the petition for reinstatement is properly denied.

TERMINATION -
LATE PAYMENT

"Last address of record." Where 43 CFR 1810.2 requires the Bureau of Land Management deliver communications by mail to the last address of record, such address is the most recent one provided for the case file by the lessee with the declared intent that all required communications be delivered there. Where a party has not so specified, the appearance of a different return address on an envelope or rental payment check received by the Bureau of Land Management does not constitute a change of the address of record.

LAST ADDRESS
OF RECORD -
DEFINITION

Reasonable diligence ordinarily requires mailing the payment sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the mail. Mailing a rental payment after it is due does not constitute reasonable diligence. The postmark date of a rental payment is generally considered the date of mailing, unless there is satisfactory corroborating evidence to support the lessees' assertion that the mailing occurred at an earlier date.

POSTMARK
CONSIDERED THE
DATE OF MAILING

A late payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessees' control which affected their actions in paying the rental fee. Unsubstantiated speculation as to errors in handling and processing the payment by the U.S. Postal Service is not evidence of extenuating circumstances which will justify the untimely rental payment.

POSTAL SERVICE
PROCESSING
NOT JUSTIFIABLE
REASON FOR
LATE PAYMENT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

January 9, 1984 - Robert Lyon (78 IBLA 232)

Oil and Gas Leases: Cancellation

BLM must cancel a noncompetitive oil and gas lease of acquired lands where it is determined after lease issuance that the lands are situated within the boundaries of an incorporated city. Such lands are not subject to oil and gas leasing under sec. 3 of the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. 352 (Supp. V 1981).

CANCELLATION -
LEASE IMPROPERLY
ISSUED IN
INCORPORATED
CITY

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December 30, 1983 - Frank M. Youngblood (78 IBLA 162)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases: Cancellation

Where a noncompetitive oil and gas lease was issued to a junior offeror who assigned his entire interest in the lease to others prior to issuance of a lease to the senior offeror for the same lands, the record is found not to be sufficient to sustain the lease issuance to the junior offeror and his assignees, whose statements appearing of record fail to establish them to be bona fide purchasers within the meaning of 43 CFR 3108.3(c). A hearing is ordered to permit the making of an adequate record upon which a determination of priority of interest may be made.

CANCELLATION -
LEASE IMPROPERLY
ISSUED TO JUNIOR
OFFEROR

BONA FIDE
PURCHASER -
JUNIOR OFFEROR
AND ASSIGNEE
NOT PROTECTED

While the interests of a bona fide purchaser may be protected from cancellation by 30 U.S.C. 184, the interest of an assignor who knows his title was defective is not protected. Overriding royalty interest reserved by assignor of lease acquired with knowledge of senior lease offer ordered canceled.

BONA FIDE
PURCHASER -
ASSIGNOR
INTEREST
NOT PROTECTED

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October 31, 1983 - Rosita Trujillo (77 IBLA 35)

Oil and Gas Leases: Bona Fide Purchaser

The bona fide purchaser of an oil and gas "lease" without notice of a defect in the assignor's title is protected by statute from cancellation of his interest in the lease. The purchaser of an interest in a "lease offer" cannot foreclose the Department from properly adjudicating the lease offer. Hence, the assignee is properly deemed to have notice of any potential defects disclosed in the case record during adjudication prior to lease issuance to the extent that an administrative decision on adjudication is not final but subject to appeal by a party adversely affected.

BONA FIDE
PURCHASER
NOTICE IN
CASE FILE
PRECLUDES
PROTECTION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

October 19, 1983 - McClellan Oil Corp. (76 IBLA 322)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

Where an oil and gas lessee timely pays its annual rental in accordance with an erroneous statement issued by the Bureau of Land Management, absent issuance of a notice of a deficiency as provided by 43 CFR 3108.2-1(b) the lease may not be held to have terminated as a matter of law because of the operation of the proviso found at 30 U.S.C. 188(b) (1976) creating a statutory exception to the rule that failure to pay the lease rental on the anniversary date terminates the lease.

TERMINATION -
DOES NOT OCCUR
WHEN LESSEE
RELIES ON
ERRONEOUS
COURTESY NOTICE

October 11, 1983 - D. M. Yates (76 IBLA 208)

Oil and Gas Leases: Cancellation

The Secretary of the Interior has the authority to cancel any oil and gas lease issued contrary to law because of the inadvertence of his subordinates. This authority is properly invoked to cancel a lease erroneously issued for land which is the subject of a prior contract of sale and which has thus been withdrawn from mineral leasing under the terms of the Public Land Sales Act of 1964, 43 CFR 1421-1427 (1976).

CANCELLATION -
LEASE IMPROPERLY
ISSUED ON LANDS
WITHDRAWN FROM
LEASING

September 6, 1983 - Joanne F. Bechtel (76 IBLA 1)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

In order for the failure to pay the annual rental for a noncompetitive oil and gas lease to be considered justifiable and subject to reinstatement under 30 U.S.C. 188(c) (1976), it must be caused by factors outside the lessee's control. Where the lessee does not demonstrate that the combination of the start of a new school year, the start of a new career for her husband, and the chronic illness of her mother-in-law during the month preceding the lease anniversary date were the proximate cause of her late rental payment, failure to pay the rental timely cannot be considered justifiable and the lease will not be reinstated.

TERMINATION -
LATE PAYMENT
NOT JUSTIFIABLE
DUE TO SEVERAL
EXTENUATING
FACTORS

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

August 22, 1983 - Harry C. Peterson (75 IBLA 195)

Oil and Gas Leases: Assignments or Transfers--Oil and Gas
Leases: Reinstatement--Oil and Gas Leases: Termination

Reinstatement of an oil and gas lease terminated pursuant to 30 U.S.C. 188(c) (1976) requires a showing by the lessee that the late payment was either justifiable or not due to a lack of reasonable diligence. Hand deliverance of the rental payment after the due date is not reasonable diligence. Neither reliance on a courtesy notice nor the failure of an assignor of an unapproved assignment to protect the assignee's interest will justify the late payment.

TERMINATION -
HAND DELIVERY OF
RENTAL PAYMENT
AFTER DUE DATE
NOT REASONABLE
DILIGENCE

Pending approval of the assignment by BLM, the assignor shall continue to be responsible for the performance of any and all obligations under the lease. Only the lessee of record can claim or request reinstatement of the lease.

REINSTATEMENT -
ONLY LESSEE IS
ELIGIBLE TO
FILE PETITION

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September 30, 1983 - Eleanor L. M. Dubey (76 IBLA 177)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rental--Oil and Gas Leases: Termination

A lease terminated automatically for untimely payment of annual rental may be reinstated only upon proof that reasonable diligence was exercised, or that the failure to make timely payment was "justifiable." In the absence of such proof, a petition for reinstatement is properly denied.

REINSTATEMENT -
REASONABLE
DILIGENCE
FOR MAILING
OF PAYMENT

Reasonable diligence requires mailing the rental payment sufficiently in advance of the anniversary date to account for normal delays in collection, transmittal, and delivery of the mail. Mailing the rental in Olympia, Washington, 3 days before it is due in Anchorage, Alaska, does not constitute reasonable diligence.

REASONABLE
DILIGENCE -
SUFFICIENTLY
IN ADVANCE
OF DUE DATE

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected her actions in paying the rental.

JUSTIFIABLE
CIRCUMSTANCES
OUTSIDE LESSEE
CONTROL

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 12, 1983 - D. M. Yates (74 IBLA 159)
Oil and Gas Leases: Cancellation

Ordinarily, the signing of an oil and gas lease offer by the authorized officer of the Bureau of Land Management is equivalent to issuance of the lease and creates a binding contract. However, where a regulation provides that no oil and gas lease offers will be accepted on lands withdrawn for the protection of wildlife, and the authorized officer fails to follow the regulation, such signing is not authorized and, therefore, not binding on the Secretary.

CANCELLATION -
LEASE IMPROPERLY
ISSUED ON LANDS
WITHDRAWN FOR
PROTECTION OF
WILDLIFE

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May 4, 1983 - Crest Oil & Gas Corp. (72 IBLA 370)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

Reinstatement of a terminated oil and gas lease pursuant to 30 U.S.C. 188(c) (1976) requires a showing that the late rental payment was either justifiable or not due to a lack of reasonable diligence. Neither delay in receipt of a courtesy billing notice nor a change in corporate offices and personnel will ordinarily justify a late rental payment.

TERMINATION -
LATE RECEIPT OF
COURTESY NOTICE
AND OFFICE MOVE
FAIL TO JUSTIFY
LATE PAYMENT

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April 16, 1983 - Getty Oil Co. (72 IBLA 39)
Oil and Gas Leases: Extensions--Oil and Gas Leases
Reinstatement--Oil and Gas Leases: Termination

Where an oil and gas lease is extended beyond its expiration date because of diligent drilling operations, it nevertheless terminates by operation of law upon failure to pay annual rental for the 11th year on or before the anniversary date of the lease.

TERMINATION -
FAILURE TO
PAY 11TH YEAR
RENTAL

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 6, 1983 - NP Energy Corp. (72 IBLA 34)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected his or her actions in paying the rental fee. A late payment is not justified where there is a pending assignment of the lease which has not been approved by BLM and the lessee incorrectly assumes that the assignment will have been approved by the rental due date or where the lessee is in the process of moving its corporate offices.

TERMINATION -
LATE PAYMENT NOT
JUSTIFIABLE DUE
TO UNAPPROVED
ASSIGNMENT
PENDING

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April 4, 1983 - Buttes Resources Co. (72 IBLA 18)

Oil and Gas Leases: Reinstatement - Oil and Gas Leases:
Rentals - Oil and Gas Leases: Termination

An oil and gas lease on which there is no well capable of producing oil or gas in paying quantities automatically terminates if the lessee fails to pay the annual rental on or before the anniversary date. The date of receipt of the rental and not the date of mailing controls in determining whether rental on an oil and gas lease was paid timely. A terminated lease may be reinstated under 30 U.S.C. 188(c) (1976) only if the failure to pay the rental timely was either justifiable or not due to a lack of reasonable diligence on the part of the lessee.

TERMINATION -
DATE OF RECEIPT
OF PAYMENT IS
CONTROLLING
RATHER THAN
DATE OF MAILING

Reasonable diligence normally requires sending the rental payment sufficiently in advance of the due date to account for normal delays in the collection, transmittal, and delivery of the payment. Mailing a rental payment from Dallas, Texas, to Billings, Montana, 2 days before it is due does not constitute reasonable diligence.

REINSTATEMENT
REASONABLE
DILIGENCE
FOR MAILING
OF PAYMENT

For late payment of an oil and gas lease rental to be justifiable, factors beyond the control of the lessee must have arisen which prevented the lessee from meeting the objective reasonable diligence test. Delay in payment resulting from improperly addressing an envelope does not justify late payment within the meaning of 30 U.S.C. 188(c) (1976).

TERMINATION -
IMPROPER
ADDRESS NOT
JUSTIFIABLE
REASON FOR
DELAY OF RENT
PAYMENT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

March 29, 1983 - Joseph F. Broda (71 IBLA 390)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

The Secretary may reinstate a lease terminated by operation of law for failure to pay on or before the anniversary date the full amount of rental due where it is shown to the satisfaction of the Secretary that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, 30 U.S.C. 188(c) (1976). Reasonable diligence normally requires sending or delivering payments sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment, 43 CFR 3108.2-1(c)(2).

TERMINATION -
LATE PAYMENT

Mailing or delivering the payment after it is due does not meet this requirement. The fact that appellant's computer system was "down" does not justify late payment.

COMPUTER SYSTEM
FAILURE NOT
JUSTIFIABLE FOR
LATE PAYMENT

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March 22, 1983 - Bryan Colley (71 IBLA 299)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

Reasonable diligence requires mailing the rental payment sufficiently in advance of the anniversary date to account for normal delays in collection, transmittal, and delivery of the mail. Mailing the rental by Special Delivery Mail in New York 2 days before it was due in Billings, Montana, is considered to constitute reasonable diligence.

REASONABLE
DILIGENCE IS
USE OF SPECIAL
DELIVERY MAIL

March 28, 1983 - Tenneco Oil Co. (71 IBLA 339)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Untimely payment of the annual rental may be justified if proximately caused by extenuating circumstances outside the lessee's control which occurred at or near the anniversary date of the lease. Breakdowns in a lessee's procedures for handling rental payments resulting from internal changes in its operations do not establish justification for a late rental payment.

TERMINATION -
CHANGE IN OFFICE
PROCEDURES FAILS
TO JUSTIFY
LATE PAYMENT

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

March 24, 1983 - Energetics, Inc. 71 IBLA 331)
Oil and Gas Leases: Reinstatement

Under 30 U.S.C. 188(c) (1976), a lease terminated automatically for untimely payment of annual rental may be reinstated only upon proof that the failure to pay the rental timely was justifiable or not due to a lack of reasonable diligence. Where the lessee has notice of the address of the proper office for making payment, the use of an incorrect address is not justified. A lessee has not been reasonably diligent where it twice sends payment using the incorrect address even though mailed before the due date, when the correctly addressed payment is not mailed until after the due date.

TERMINATION -
USE OF INCORRECT
ADDRESS NOT
REASONABLE
DILIGENCE
FOR RECEIPT OF
PAYMENT AFTER
DUE DATE

February 4, 1983 - Bernard Kosik (70 IBLA 373)
Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
Cancellation

A bona fide purchaser must have acquired his interest in good faith, for valuable consideration, and without notice of a violation of Departmental regulation. The protection of a bona fide purchaser of an oil and gas lease applies only where consideration has been paid before notice of cancellation of the lease has been received by the lessor and has become part of BLM's records.

BONA FIDE
PURCHASER -
PROTECTION

January 11, 1983 - Deck Oil Co. (70 IBLA 97)
Oil and Gas Leases: Reinstatement

For delay in submission of an oil and gas lease rental payment to be justifiable, factors outside the control of the lessee must have arisen which prevented the lessee from meeting the objective reasonable diligence test. Late payment is not justified where an employee of lessee did not understand the time constraints governing the time for payment.

TERMINATION -
EMPLOYEE LACK
OF KNOWLEDGE OF
TIME CONSTRAINTS
NOT REASONABLE
DILIGENCE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

December 21, 1982 - Gulf Oil Corp. (69 IBLA 263)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected its actions in paying the rental fee. An accidental deviation in a lessee's normal payment procedure which results in payment being misdirected to the wrong Bureau of Land Management office is not a circumstance outside the lessee's control.

TERMINATION
LATE PAYMENT
DUE TO RENT
SENT TO
WRONG OFFICE

November 29, 1982 - Donald L. Darrow (69 IBLA 62)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Reasonable diligence normally requires sending the payment sufficiently in advance of the due date to account for normal delays in the collection, transmittal, and delivery of the payment. Mailing a rental payment the day it is due does not constitute reasonable diligence.

TERMINATION -
LATE PAYMENT

Untimely payment of the annual rental may be justified if proximately caused by extenuating circumstances outside the lessee's control which occurred at or near the anniversary date of the lease. The fact that appellant "commutes" to his place of business in California from his home in Illinois, does not justify late payment.

COMMUTING
DISTANCE BETWEEN
HOME AND WORK
NOT JUSTIFIABLE
REASON FOR
LATE PAYMENT

November 24, 1982 - Fortune Oil Co. (69 IBLA 13)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
Cancellation

Where an oil and gas lease has inadvertently been issued for land that was the subject of a then current lease in good standing, the later lease is properly canceled to the extent that it conflicts with the earlier lease notwithstanding the fact that the later lease has been assigned to parties claiming bona fide purchaser status. An assignee can stand in no better position than the assignor.

CANCELLATION -
LEASE IMPROPERLY
ISSUED ON LANDS
IN EXISTING
LEASE; NO BONA
FIDE PURCHASER
PROTECTION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

November 4, 1982 - Richard C. Hubbard (68 IBLA 170)
Oil and Gas Leases: Termination

Reliance upon receiving a courtesy billing notice before the due date can neither prevent the lease from terminating by operation of law nor serve to justify a failure to pay the full lease rental in a timely manner.

TERMINATION -
FAILURE TO
RECEIVE COURTESY
NOTICE

September 24, 1982 - Peter R. Buehler (67 IBLA 242)
Oil and Gas Leases: Reinstatement

A terminated oil and gas lease may be reinstated only if the failure to make timely payment was either justifiable, i.e., due to events outside the lessee's control, or not due to a lack of reasonable diligence. Reasonable diligence generally requires sending the payment sufficiently in advance of the due date to account for normal delays in the collection, transmittal, and delivery of the payment. Mailing the rental after it was due does not constitute reasonable diligence. Late payment is not justified by the fact that the lessee did not receive a courtesy notice from the BLM, or the fact that he received erroneous advice from BLM employees.

TERMINATION -
CANNOT RELY ON
COURTESY NOTICE
NOT RECEIVED OR
BLM EMPLOYEE
ERRONEOUS ADVICE

September 9, 1982 - Kristie R. Cobb (67 IBLA 59)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

A check which is negotiable by a party other than the BLM does not constitute timely payment of lease rental, even if received prior to the anniversary date of the lease.

TERMINATION -
NON-NEGOTIABLE
CHECK

Where the BLM returns on the fourth working day following receipt an oil and gas lease rental check which is not negotiable by it, it has acted with reasonable dispatch, and the lease terminates automatically by law when a substitute check is not received until after the anniversary date.

SUBSTITUTE
RENT PAYMENT
RECEIVED LATE

An oil and gas lease terminated automatically for untimely payment of rental may be reinstated upon proof that reasonable diligence was exercised. Mailing payment to the BLM after it is due does not constitute reasonable diligence
(continued)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected its actions in paying the rental fee. Inadvertently sending, prior to the anniversary date, a rental check which is not negotiable by the BLM is not a circumstance outside the control of the lessee and does not justify a subsequent late payment of rental.

TERMINATION -
LATE PAYMENT
DUE TO ORIGINAL
NON-NEGOTIABLE
CHECK NOT A
JUSTIFIABLE
REASON FOR
LATE PAYMENT

September 8, 1982 - Zions First National Bank (67 IBLA 43)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected its actions in paying the rental fee. The breakdown of a system for payment of lease rentals allegedly because of confusion attributed to a probate lawsuit is not a sufficiently extenuating circumstance outside the lessee's control to justify late payment.

TERMINATION -
PROBATE LAWSUIT
CONFUSION NOT
JUSTIFIABLE
REASON FOR
LATE PAYMENT

July 20, 1982 - Victory Land and Exploration Co. (65 IBLA 373)
Oil and Gas Leases: Reinstatement

Where a proposed assignment of an oil and gas lease has not been approved by BLM and the lease has automatically terminated by operation of law for failure to pay rental timely, only the original lessee as the holder of record of the lease, and not the potential assignee, may petition to have the lease reinstated on the grounds that reasonable diligence was exercised or that the late payment was justified.

REINSTATEMENT -
POTENTIAL
ASSIGNEE CANNOT
FILE PETITION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

June 23, 1982 - Richard W. Eckels (On Reconsideration)
(65 IBLA 76)

Oil and Gas Leases: Bona Fide Purchaser

The protection afforded a bona fide purchaser of an oil and gas lease applies only where consideration has been paid. An unperformed obligation to pay the assignor is not generally sufficient value. Receipt by the purchaser of notice that a lease is subject to cancellation prior to payment of the obligation to the assignor which the purchaser has assumed will bar bona fide purchaser status even if the assignee thereafter pays the obligation.

BONA FIDE
PURCHASER -
PROTECTION
BARRED BY
RECEIPT OF
NOTICE BY
PURCHASER

June 17, 1982 - Trend Resources Limited (64 IBLA 383)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

An oil and gas lease terminated by operation of law for failure to pay timely the advance rentals can be reinstated only when the lessee shows that his failure to pay the rental on or prior to the anniversary date was justifiable or not due to a lack of reasonable diligence. Reasonable diligence is not shown where a computer failure to make timely payment by Feb. 1 is discovered on or about Feb. 16; a check is not subsequently mailed until Feb. 25; and payment is not actually received by BLM until Mar. 1.

TERMINATION -
COMPUTER FAILURE
DISCOVERED AFTER
DUE DATE NOT
JUSTIFIABLE
REASON FOR
LATE PAYMENT

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June 2, 1982 - Alminex U.S.A., Inc. (64 IBLA 274)
Oil and Gas Leases: Reinstatement

For delay in submission of an oil and gas lease rental payment to be justifiable, factors outside the control of the lessee must have arisen which prevented the lessee from meeting the objective reasonable diligence test. Late payment is not justified by failure to receive a courtesy notice of rental due or by a delay in receiving assignment forms which prevented shifting the responsibility for lease payment prior to the anniversary date.

TERMINATION -
FAILURE TO
RECEIVE COURTESY
NOTICE AND
ASSIGNMENT FORMS
TO TRANSFER
LEASE NOT
JUSTIFIABLE FOR
LATE PAYMENT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 23, 1982 - Gulf Oil Corp. (63 IBLA 296)
Oil and Gas Leases: Reinstatement

The lessee of an oil and gas lease issued after Sept. 2, 1960, that has reached the end of its primary term must submit the rental for the first year of an anticipated extended term under 30 U.S.C. 226(e) (1976) on or before the regular anniversary date of the lease. Failure to submit the rental timely results in the automatic termination of the lease by operation of law under 30 U.S.C. 188(b) (1976).

REINSTATEMENT -
LEASES ISSUED
AFTER SEPT. 2,
1960, NEED
TIMELY PAYMENT
OF 6TH/11TH YEAR
RENT TO CONTINUE
OPERATIONS

The discretionary authority granted to the Secretary of the Interior by 30 U.S.C. 188(d) (1976) to reinstate oil and gas leases terminated for failure to pay rental timely, which leases are eligible for extensions under 30 U.S.C. 226(e) (1976) because drilling operations commenced prior to the end of the term of the lease and were being diligently prosecuted at that time, applies only to oil and gas leases issued before Sept. 2, 1960. An oil and gas lease issued after that date, which has terminated for failure to pay rental timely, can be reinstated only under the provisions of 30 U.S.C. 188(c) (1976).

REINSTATEMENT -
DISCRETIONARY
FOR LEASES
ISSUED BEFORE
SEPT. 2, 1960,
WHEN DRILLING
COMMENCED OVER
EXPIRATION DATE

April 22, 1982 - Martin Exploration Management Corp.
(63 IBLA 287)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Regulations: Generally

In order for the failure to pay oil and gas lease rental timely to be considered justifiable, generally it must be caused by factors outside the lessee's control, which were the proximate cause of the failure. A lessee's ignorance of BLM's correct address, resulting in the return to him of the incorrectly addressed payment envelope, is not a justifiable excuse.

TERMINATION -
INCORRECT
MAILING ADDRESS
FOR PAYMENT NOT
JUSTIFIABLE FOR
LATE PAYMENT

All persons dealing with the Government are presumed to have knowledge of duly promulgated rules and regulations, regardless of their actual knowledge of what is contained in such regulations.

PERSONS DEALING
WITH GOVERNMENT
PRESUMED TO KNOW
REQUIREMENTS

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

March 16, 1982 - Ervin Staacke et al. (62 IBLA 278)

January 28, 1982 - James Koch et al. (61 IBLA 235)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
Cancellation

An assignee of a Federal oil and gas lease who qualifies as a bona fide purchaser is protected from cancellation or forfeiture of his interests notwithstanding the violation by his assignor, the first drawee in the simultaneous oil and gas lease drawing, of regulations concerning undisclosed parties in interest. 30 U.S.C. 184(h)(2) (1976); 43 CFR 3102.1-2.

BONA FIDE
PURCHASER -
PROTECTION

"Bona fide purchaser." A bona fide purchaser of an interest in a Federal oil and gas lease must have acquired his interest in good faith, for valuable consideration, and without notice of violation of Departmental regulations. Assignees are deemed to have constructive knowledge of all BLM records pertaining to the lease at the time of assignment.

BONA FIDE
PURCHASER
DEFINITION

An overriding royalty interest retained by a lessee after he has assigned the lease to a bona fide purchaser is voidable and subject to cancellation where it is revealed that the lessee's original lease offer failed to disclose the existence of another party in interest in the offer. Any overriding royalties which the lessee assigned to the other party in interest are also properly subject to cancellation as this party is not a bona fide purchaser thereof, having had actual knowledge of the defect in the lease. BLM must sell such canceled overriding royalty interests as provided in 30 U.S.C. 184(h) (1976) and 43 CFR 3102.1-2(b).

CANCELLATION -
OVERRIDING
ROYALTY INTEREST
VOIDABLE AND
NOT UNDER
BONA FIDE
PURCHASER
PROTECTION

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March 4, 1982 - J. M. Dunbar, A. G. Andrikopoulos
(62 IBLA 119)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas
Leases: Relinquishments

Where a lessee relinquishes an oil and gas lease, he is exercising a right given by the Mineral Leasing Act, and BLM may not interfere. The relinquishment is effective as of the day it is filed, notwithstanding that prospective assignees of an interest in the lease may object.

RELINQUISHMENT
RIGHT OF LAW
THAT BLM CANNOT
INTERFERE

(continued)

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Where an oil and gas lessee has assigned an interest to a party which is assertedly a bona fide purchaser, and where the lessee subsequently relinquishes his lease interest as part of a guilty plea agreement in a Federal criminal proceeding in which he is charged with illegally manipulating the noncompetitive lease sale system, the assignee's interest is not preserved by the bona fide purchaser provisions, which do not protect any purchasers of lease interests from destruction by the relinquishment or compelled disposition of the underlying lease by the lessee.

BONA FIDE
PURCHASER -
INTEREST NOT
PROTECTED

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February 25, 1982 - David E. Cooley, Jr. (62 IBLA 87)
Oil and Gas Leases: Reinstatement

For delay in submission of an oil and gas lease rental payment to be justifiable, factors outside the control of the lessee must have arisen which prevented the lessee from meeting the objective reasonable diligence test. Late payment is not justified by lessee's inadvertent misplacement of office records during the changeover in his office location.

TERMINATION -
LATE PAYMENT
CAUSED BY
MISPLACED OFFICE
RECORDS NOT
JUSTIFIABLE FOR
LATE PAYMENT

February 23, 1982 - James M. Chudnow (62 IBLA 13)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Untimely payment of the annual rental may be justified if proximately caused by extenuating circumstances outside the lessee's control which occurred at or near the anniversary date of the lease. Neither ignorance of the law nor a business or pleasure trip justifies late payment.

TERMINATION -
IGNORANCE OF LAW
AND TRIP NOT
JUSTIFIABLE FOR
LATE PAYMENT

February 2, 1982 - Thomas H. Wilson (61 IBLA 287)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected his actions in paying the rental fee. The fact that lessee's employee, responsible for submitting the rental payment, was home 1 day with his ill wife and was overburdened with extraordinary business matters, does not justify reinstatement.

TERMINATION -
FAMILY ILLNESS
OF EMPLOYEE AND
OVERBURDEN OF
BUSINESS MATTERS
NOT JUSTIFIABLE
REASON FOR LATE
RENTAL PAYMENT

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

January 28, 1982 - Getty Oil Co. (61 IBLA 226)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected his or her actions in paying the rental fee. Where a lessee asserts a lack of knowledge of a rental increase as justification for its failure to pay timely the full amount of the rental, the lease will not be reinstated if the record supports a finding that the lessee had knowledge of the increase approximately 6 weeks prior to the anniversary date of the lease.

TERMINATION -
FAILURE TO PAY
RENTAL INCREASE
NOT JUSTIFIABLE
REASON FOR
FAILURE TO PAY
SUFFICIENT
LEASE RENTAL
BY DUE DATE

December 18, 1981 - Ruth Eloise Brown (60 IBLA 328)

Oil and Gas Leases: Reinstatement

For delay in submission of an oil and gas lease rental payment to be justifiable, factors outside the control of the lessee must have arisen which prevented the lessee from meeting the objective reasonable diligence test. Late payment is not justified by failure to receive a courtesy notice of rental due. Late payment is not justified by illness or other reasons, unless a lessee demonstrates that they were causative factors for delay in immediate proximity to the anniversary date of the lease.

TERMINATION -
ILLNESS MUST BE
DEMONSTRATED TO
BE CAUSATIVE
FACTOR FOR
LATE PAYMENT

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November 30, 1981 - Max W. Young (60 IBLA 224)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

Where the date marked on an envelope by a private postage meter conflicts with the postmark made by a United States post office, the U.S. postmark will be deemed the date of mailing in the absence of satisfactory corroborating evidence that the mailing occurred earlier. Mailing a rental payment the afternoon of the day due does not constitute reasonable diligence.

TERMINATION -
PRIVATE POSTAGE
METER DATE
CONFLICTS WITH
POSTAL SERVICE
POSTMARK DATE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

November 24, 1981 - Robert L. Wright, Shell Oil Co.
(60 IBLA 142)

Oil and Gas Leases: Rentals--Oil and Gas Leases:
Termination--Notice: Generally--Oil and Gas Leases: KGS

An oil and gas lease on which there is no well capable of production terminates automatically by operation of law if the lessee pays only part of the annual rental due on or before the anniversary date of the lease, and if the deficiency in this payment was not nominal and did not result from any incorrect information in a rental bill or decision.

TERMINATION -
FAILURE TO PAY
FULL RENTAL
AMOUNT UPON
RENTAL INCREASE
SENT BY NOTICE

BLM has satisfied its burden of giving notice of the inclusion of leased lands in a KGS and of the concomitant increase in annual rental to \$2 per acre or fraction thereof when it notifies the lessees of record, regardless of its failure to notify the holder of operating rights under the lease.

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November 16, 1981 - Petrolero Corp. (60 IBLA 21)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

An oil and gas lease terminated by operation of law for failure to pay the advance rental on or before the anniversary date may be reinstated only upon a showing that the failure to pay on time was either justifiable or not due to lack of reasonable diligence. The fact that appellant's employee mistakenly sent the courtesy notice to a corporation which was the assignee for part of the lease does not justify late payment.

TERMINATION -
COURTESY NOTICE
SENT BY EMPLOYEE
TO ASSIGNEE
NOT JUSTIFIABLE
REASON FOR
LATE PAYMENT

November 9, 1981 - Dome Petroleum Corp. (59 IBLA 370)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected its actions in paying the rental fee. However, where the lessee has entrusted payment to an employee who is hospitalized because of an injury, and another employee who assumes the injured employee's responsibilities fails to make timely payment, the injury of the employee is not the proximate cause of the late payment.

TERMINATION -
DUTIES OF ILL
EMPLOYEE ASSUMED
BY ANOTHER
EMPLOYEE WITH
FAILURE TO PAY
RENTAL TIMELY
NOT JUSTIFIABLE
REASON

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

September 16, 1981 - York Associates, Ltd. (58 IBLA 25)
 Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
 Cancellation

Where, at the time of an assignment of an oil and gas lease, BLM's oil and gas status plat reveals that the leased lands are subject to a senior, and therefore superior, oil and gas lease offer, the assignee of the lease is not a bona fide purchaser, for it is imputed to have knowledge of BLM's records which contained information adequate to raise doubt that the assigned lease was validly issued.

BONA FIDE
 PURCHASER -
 SENIOR OFFER
 REVEALED BY
 PLAT RECORDS
 PROVIDES NO
 PROTECTION TO
 ASSIGNEE

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July 22, 1981 - David Burr et al. (56 IBLA 225)
 Oil and Gas Leases: Bona Fide Purchaser

An assignee of a Federal oil and gas lease who qualifies as a bona fide purchaser, is protected from cancellation or forfeiture of his interests notwithstanding the violation by his assignor, the first drawee in the simultaneous oil and gas lease drawing, of regulations concerning undisclosed parties in interest. 30 U.S.C. 184(h)(2) (1976); 43 CFR 3102.1-2.

BONA FIDE
 PURCHASER .
 PROTECTION

"Bona fide purchaser." A bona fide purchaser of an interest in a Federal oil and gas lease must have acquired his interest in good faith, for valuable consideration, and without notice of violation of Departmental regulations. Assignees are deemed to have constructive knowledge of all BLM records pertaining to the lease at the time of assignment.

BONA FIDE
 PURCHASER .
 DEFINITION

In the absence of evidence of actual knowledge that a lease offer was made in violation of the regulations, reliance by an assignee of the lease on the Bureau of Land Management decision to issue the lease is not unreasonable and will support assignee's claim of bona fide purchaser status where there is no pending inquiry, protest, or appeal proceeding.

BONA FIDE
 PURCHASER -
 RELIANCE ON
 BLM RECORDS
 PROVIDES
 PROTECTION

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July 8, 1981 - Michael Morrisroe, Jr. (56 IBLA 49)
 Oil and Gas Leases: Reinstatement

Absence from the country at the time payment is due on a lease does not justify late payment of the rental. Early payment or other arrangements could be made to ensure timely payment.

TERMINATION -
 LATE PAYMENT NOT
 JUSTIFIABLE DUE
 TO ABSENCE FROM
 COUNTRY

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

June 30, 1981 - International Resource Enterprises, Inc.
(55 IBLA 386)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

A late rental payment may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected his or her actions in paying the rental fee. The fact that a lessee's accountant, responsible for submitting the rental payment is overburdened with work will not justify reinstatement.

TERMINATION -
OVERBURDENED
ACCOUNTANT NOT
JUSTIFIABLE
REASON FOR
LATE PAYMENT

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April 28, 1981 - Wilbur G. Desens et al. (54 IBLA 271)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
Cancellation

A party which purchases a first-drawn simultaneous noncompetitive DEC lease offer is a bona fide purchaser of this interest where, at the time it agreed to purchase the offer, BLM's case records contained nothing to indicate that the offer was defective or that a protest against the offer was ongoing or in prospect; and where, at the time the purchaser consummated the agreement by payment of consideration for the offer, these records showed that BLM had proceeded to issue the lease, thus indicating that there was no defect in the offer, provided that the purchaser had no actual knowledge of any defect in the offer.

BONA FIDE
PURCHASER -
INDICATION IN
BLM RECORDS OF
NO DEFECT NOR
PROTEST PROVIDES
PROTECTION TO
ASSIGNEE

An overriding royalty interest retained by a lessee after he has assigned the lease to a bona fide purchaser is voidable and properly canceled where it is revealed that the lessee's original lease offer failed to disclose the existence of another party in interest in the offer. Any overriding royalties which the lessee assigned to the other party in interest are also properly canceled, as this party is not a bona fide purchaser thereof, having had actual knowledge of the defect in the lease. BLM should, on remand, sell these canceled overriding royalty interests as provided in 30 U.S.C. 184(h) (1976) and 43 CFR 3102.1-2(b).

CANCELLATION -
OVERRIDING
ROYALTY INTEREST
VOIDABLE AND
NOT UNDER
BONA FIDE
PURCHASER
PROTECTION

A "remote purchaser," that is, one who purchases an oil and gas lease interest from a bona fide purchaser, is protected just as is the latter.

REMOTE PURCHASER
PROTECTION

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 10, 1981 - Frederick J. Schlicher (54 IBLA 61)
Oil and Gas Leases: Bona Fide Purchaser

Under 30 U.S.C. 184(h) (1976), the determination whether an assignee of an oil and gas lease is a bona fide purchaser must be based on the circumstances existing on the date the assignment is effective between the lessee of record and the assignee. An assignee is not required to file the assignment with BLM for approval as a condition of bona fide purchaser status.

BONA FIDE
PURCHASER -
EFFECTIVE DATE
BETWEEN ASSIGNEE
AND ASSIGNOR IS
CONDITION FOR
PROTECTION

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March 26, 1981 - Mary A. Barnett (53 IBLA 328)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

Reasonable diligence normally requires sending the payment sufficiently in advance of the due date to account for normal delays in the collection, transmittal, and delivery of the payment. When the lessee makes a sufficient showing that rental payment for an oil and gas lease was mailed 15 days before the date it is due, the lease will be reinstated because the late filing was not due to a lack of reasonable diligence.

REINSTATEMENT
REASONABLE
DILIGENCE BY
SUFFICIENT
SHOWING OF
TIMELY
TRANSMITTAL

=====

March 12, 1981 - Jack J. Grynberg (53 IBLA 165)
Administrative Authority: Estoppel--Estoppel--Federal
Employees and Officers: Authority to Bind Government--Oil
and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

An oil and gas lease is properly declared to have terminated automatically for nonpayment of rental because, although the lessee claims to have mailed timely the rental together with other payments which were received, the rental check cannot be found.

TERMINATION -
MAILED PAYMENT
LOST

The Department has no authority to reinstate an oil and gas lease which has terminated by operation of law unless the payment is received within 20 days after the date of termination. The erroneous acceptance of rental payment a year later cannot create such authority nor estop the Government from regarding the lease as having terminated.

ERRONEOUS
ACCEPTANCE OF
RENT PAYMENT A
YEAR LATER DOES
NOT PREVENT
TERMINATION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

February 3, 1981 - Energetics, Inc. (52 IBLA 236)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

An oil and gas lease, terminated by operation of law for failure to timely pay the annual rental, will not be reinstated where the lessee mailed the rental payment to the wrong BLM office, where that office returned the payment in sufficient time for lessee to make timely payment in the proper office, but where the lessee failed to do so.

TERMINATION -
MAILED TO
WRONG OFFICE

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January 13, 1981 - Elizabeth A. Christensen (52 IBLA 113)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Termination

Untimely payment of the annual rental may be justified if proximately caused by extenuating circumstances outside the lessee's control which occurred at or near the anniversary date of the lease. Speculation as to errors in post office mail processing does not constitute such extenuating circumstances as to make untimely payment of annual rental justified.

TERMINATION -
POSTAL SERVICE
MAIL PROCESSING
ERRORS NOT
JUSTIFIABLE
REASON FOR
LATE PAYMENT

January 12, 1981 - Stan F. Waliszek (52 IBLA 101)

Oil and Gas Leases: Reinstatement

The burden of proving that reasonable diligence was exercised or the lack of diligence was justified rests on the lessee. Where a lessee states that he mailed the rental payment to the proper BLM office well in advance of the due date but presents no corroborating evidence of the attempted payment, an oil and gas lease reinstatement petition is properly denied.

TERMINATION -
FAILURE TO
CORROBORATE
TIMELY MAILING
IN ADVANCE OF
DUE DATE

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January 6, 1981 - Husky Oil Co., Pan Eastern Exploration Co.
(52 IBLA 41)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
Cancellation

Where an oil and gas lease has inadvertently been issued for land, which was the subject of a then current lease in good standing and the newly issued lease is properly canceled, there is no authority to refund to assignees the purchase price paid for the lease or to issue to them an oil and gas lease on Federal land in value equal thereto.

BONA FIDE
PURCHASER -
NO PROTECTION
TO ASSIGNEE
FOR IMPROPERLY
ISSUED LEASE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

December 29, 1980 - Virgil T. Hartquist (51 IBLA 356)
 Oil and Gas Leases: Termination--Oil and Gas Leases:
 Reinstatement

Untimely payment of the annual rental may be justified if proximately caused by extenuating circumstances outside the lessee's control which occurred at or near the anniversary date of the lease. No justifiable excuse arises where a discrepancy as to total acreage exists between the parcel listing and lease, BLM notifies the lessee at his address of record of the correct amount and the notice is returned as not deliverable, and the lessee, relying on the advice of his leasing service and landman, submits the incorrect amount.

TERMINATION -
 ACREAGE CHANGE

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July 28, 1980 - Rose M. Keegel (49 IBLA 106)
 Accounts: Payments--Oil and Gas Leases: Rentals--Payments:
 Generally

Placing a check for annual rental for oil and gas leases in the mails does not constitute "payment" of annual rental. Rather, the lessee must cause the rental to be received by the office administering her leases, and, until such time as it is received, no "payment" of annual rental has occurred. Placing a check for annual rental for oil and gas lease in the mails does not constitute a tender of payment of annual rental within the meaning of 43 CFR 3108.2-1(c). Rather, a lessee makes a tender of payment only when she submits payment to the BLM office administering her leases and when BLM has the opportunity either to receive or decline it.

TERMINATION -
 TENDER OF RENTAL
 PAYMENT DOES NOT
 OCCUR UNTIL
 PAYMENT RECEIVED

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June 26, 1980 - David Faskin (48 IBLA 258)
 Oil and Gas Leases: Rentals--Oil and Gas Leases: Termination

A delay by BLM in notifying an oil and gas lessee that his lease has terminated because he has failed to pay all of the rental due on or before the anniversary date of the lease does not extend the viability of the lease in order to allow him to pay the balance of the rental, as the lease had already terminated automatically by operation of law, without any administrative act, deed, or decision.

TERMINATION -
 PAYMENT MORE
 THAN NOMINALLY
 DEFICIENT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

June 9, 1980, - POI Energy, Inc. (48 IBLA 197)

Oil and Gas Leases: Reinstatement

A lessee whose oil and gas leases terminated by operation of law for failure to pay rental timely may be found to have exercised "reasonable diligence" in mailing the rental payments on October 29 when they were due on Nov. 1, and the leases should therefore be granted reinstatement.

REINSTATEMENT -
REASONABLE
DILIGENCE
EXERCISED

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May 27, 1980 - Deane A. Dunham (48 IBLA 7)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:

Rentals--Oil and Gas Leases: Termination

An oil and gas lease terminated automatically by operation of law for failure to pay rental timely when the rental check, although timely received by the appropriate BLM office, is not honored by the bank upon which it is drawn, when presented for payment. Where a lessee submits his rental check timely, but the check is nonnegotiable because insufficient funds are on deposit in the particular bank when the check is presented for payment, the lessee has not exercised reasonable diligence. Where the lessee provides no evidence that the rental check was dishonored through the fault of someone other than the lessee, there is no basis for reinstatement of the lease.

TERMINATION -
UNCOLLECTIBLE
PAYMENT

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March 31, 1980 - Western Reserves Oil Co. (46 IBLA 295)

Oil and Gas Leases: Rentals--Oil and Gas Leases: Termination

Where the lessee shows that his failure to pay rental timely is justifiable, he pays the required rental within 20 days after the due date, excluding the normal business days the office is closed due to snowstorms, and he otherwise complies with statutory and regulatory requirements, he is entitled to reinstatement of his lease under 30 U.S.C. 188(c) (1976).

REINSTATEMENT -
LATE PAYMENT
FOR JUSTIFIABLE
REASONS

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

December 19, 1979 - Phyllis Lane Zehr, Alice M. Conte
(44 IBLA 261)

Evidence: Generally--Oil and Gas Leases: Reinstatement

Ordinarily, the postmark on a letter will be assumed to indicate the date and place of mailing in the absence of evidence to the contrary. Reasonable diligence is found where a rental payment, due in Billings, Montana, on June 1, 1979, was actually mailed from Wilmington, Delaware, on May 29, 1979, despite the fact that the envelope containing such payment bears only a Billings, Montana, postmark of June 2, 1979.

REINSTATEMENT -
POSTMARK FROM
LOCATION MAILED
FROM MISSING

February 29, 1980 - Harold W. Fullerton (46 IBLA 116)
Oil and Gas Leases: Reinstatement

Placing payment for annual rental for an oil and gas lease in a residential mailbox for posting by the Postal Service without later checking to insure that the payment was picked up does not constitute reasonable diligence, especially when the lessee's regular mail delivery is to a different address. Failure of the payment to then be timely made is not justified, even though the Postal Service admittedly was not making regular stops at that mailbox, because timely payment was still within the lessee's control through the exercise of reasonable diligence.

TERMINATION -
USE OF POSTAL
SERVICE

November 30, 1979 - Norman C. Stroink (44 IBLA 188)
Oil and Gas Leases: Termination--Oil and Gas Leases:
Reinstatement

A lack of diligence may be justifiable if it is demonstrated that at or near the anniversary date there existed sufficiently extenuating circumstances outside the lessee's control which affected his or her actions in paying the rental fee. A lessee's suffering severe, incapacitating injuries during the month before the anniversary date of the lease may constitute proximate cause sufficient to justify late payment of the rental and to warrant reinstatement of the lease.

REINSTATEMENT -
SEVERE INJURIES
JUSTIFIABLE
REASON FOR
LATE PAYMENT

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

November 30, 1979 - B. J. Bradshaw - (44 IBLA 181)
Estoppel--Oil and Gas Leases: Relinquishments--Oil and Gas
Leases: Termination

An oil and gas lease on which there is no well capable of producing oil or gas in paying quantities will automatically terminate on the anniversary date of the lease upon failure of lessee to pay the minimum annual rental, despite a partial payment submitted on the basis of a partial relinquishment, which was ineffective because [it was] not filed by the record title holder pursuant to 43 CFR 3108.1, and despite issuance of a Bureau of Land Management decision subsequent to the anniversary date confirming a decreased annual rental.

TERMINATION -
PARTIAL PAYMENT
BASED ON PARTIAL
RELINQUISHMENT
THAT WAS NOT
ACCEPTABLE

November 30, 1979 - Tenneco Oil Co., Cordillera Corp.
(44 IBLA 171)
Oil and Gas Leases: Extensions--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination--Rules of Practice:
Appeals: Effect of

An oil and gas lease in its extended term because of the termination of an approved unit plan to which it was committed, on which lease there is no well capable of production in paying quantities, terminates automatically by operation of law where the annual rental is not paid on or before the anniversary date of the lease. The pendency of an appeal regarding the termination date of the extension does not excuse the failure to maintain the lease in good standing by timely payment of the annual rental.

TERMINATION -
LEASE IN
EXTENDED TERM
DUE TO UNIT
TERMINATION
FAILS TO MAKE
RENTAL PAYMENT
BY DUE DATE

There is no authority to suspend an oil and gas lease terminated by operation of law for failure to pay the annual rental on or before the anniversary date of the lease where no application for suspension was filed before the lease terminated.

NO AUTHORITY
TO SUSPEND
TERMINATED LEASE
IF REQUEST TO
SUSPEND NOT MADE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

November 27, 1979 - Agnes James (44 IBLA 133)

Oil and Gas Leases: Reinstatement

An oil and gas lease terminated by operation of law for failure of the lessee to pay the annual rental on or before the anniversary date of the lease may be reinstated only if the late payment is justifiable or not due to a lack of reasonable diligence. Where, for the first time on appeal, there are assertions concerning the death of lessee's husband, the case will be remanded to BLM for an initial determination as to whether circumstances demonstrate the requisite proximity and causality to justify the delay in payment, and reinstatement of the lease.

REINSTATEMENT
DEATH OF
LESSEE'S
HUSBAND

October 29, 1979 - Reid E. Motley (43 IBLA 360)

Oil and Gas Leases: Reinstatement--Reinstatement:

Generally--Words and Phrases

The fact that a courtesy rental notice did not come to oil and gas lessee's attention until 1 day prior to rental due date is not a justifiable excuse for late payment of the rental.

TERMINATION -
AWARENESS OF
COURTESY NOTICE

October 10, 1979 - William A. Klug (43 IBLA 255)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:

Rentals--Rules of Practice: Appeals: Burden of Proof

The burden of showing that late payment of annual rental for an oil and gas lease is justifiable is on the lessee. An assertion of personal reasons without further explanation, is insufficient to meet this burden. Nor does reliance on receipt of a courtesy notice justify failure to pay rental timely.

TERMINATION -
PERSONAL REASONS
WITHOUT FURTHER
EXPLANATION NOT
JUSTIFIABLE FOR
LATE PAYMENT

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September 11, 1979 - Fuel Resources Development Co.
(43 IBLA 19)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:

Rentals--Oil and Gas Leases: Termination

Where the failure to pay rental on or before the anniversary date of a lease is attributable to a breakdown in mailing procedures within the parent company of the lessee, neither reasonable diligence nor justification is shown to support a petition for reinstatement.

TERMINATION -
BREAKDOWN OF
COMPANY MAIL
PROCEDURES NOT
JUSTIFIABLE FOR
LATE PAYMENT

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

August 27, 1979 - William M. Steiskal (42 IBLA 304)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rental

Reliance on receipt of a courtesy billing notice from BLM is not a justifiable excuse upon which to predicate reinstatement of an oil and gas lease terminated for failure to pay rental timely. The fact that the courtesy rental notice was delayed in reaching appellant because it was sent to appellant's former address is not a justifiable excuse for late payment.

TERMINATION -
DELAY IN RECEIPT
OF COURTESY
NOTICE NOT
JUSTIFIABLE FOR
LATE PAYMENT

August 27, 1979 - Victor Holz (42 IBLA 284)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

Where a lessee presents no evidence that illness of a family member or a heavy work load were so disruptive as to prevent him from carrying on his other routine activities as usual, the late payment of rental on an oil and gas lease is not justified by the illness or the work.

TERMINATION -
NO EVIDENCE THAT
FAMILY MEMBER
ILLNESS WAS
JUSTIFIABLE FOR
LATE PAYMENT

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August 22, 1979 - Coronado Oil Co. (42 IBLA 235)

Administrative Procedure: Hearings--Hearings--Oil and Gas
Leases: Extensions--Oil and Gas Leases: Termination--Oil
and Gas Leases: Well Capable of Production--Rules of
Practice: Hearings

A hearing is properly ordered where there exist issues of fact the resolution of which will determine whether an oil and gas lease concluding its primary term was converted from rental status to royalty status. Appellant shall have the burden of proof to establish by a preponderance of the evidence (a) that the Dolezal-Government #1 well was capable of producing oil and gas in paying quantities on October 31, 1978, or (b) that there was a discovery of oil or gas in paying quantities on lease W 15891 on October 31, 1978. If either (or both) of these propositions is established, the subject lease was not subject to automatic termination by law for failure to make timely rental payment.

TERMINATION -
DETERMINATION
WHETHER LEASE
WENT INTO
PRODUCTION
PRIOR TO
RENTAL DUE DATE

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

June 28, 1979 - Geosearch Inc. (41 IBLA 291)

Oil and Gas Leases: Bona Fide Purchaser

A decision by BLM dismissing protests against the continued validity of the leases because the assignees are bona fide purchasers will be vacated where the record contains no statement by the assignees of oil and gas leases that they are bona fide purchasers, and the matter will be remanded so that BLM may join the assignees to the protest proceedings in order to give them the opportunity to show that they acquired the interest as bona fide purchasers, and to give the protestant the opportunity to present prima facie evidence to the contrary, per 43 CFR 3102.1-2(c). Where the assignees have alleged that they are bona fide purchasers, it is up to the protestant to show prima facie to the contrary.

BONA FIDE
PURCHASER -
DETERMINATION
OF PROTECTION

April 18, 1979 - Allied Chemical Corp. et al. (40 IBLA 272)

Oil and Gas Leases: Cancellation

An oil and gas lease issued on July 1, 1951, is not controlled by P.L. 83-555, effective July 29, 1954, and the lease therefore does not terminate automatically by operation of law if annual rental is not paid timely, as this law does not apply retroactively to the lease in the absence of written notice from the lessees that they have elected to subject their lease to this law. Rather, the mineral leasing law in effect prior to July 29, 1954, controls, under which the lessees' failure to pay annual rental subjects the lease to cancellation only after BLM gives them 30 days notice of their failure to pay the rental timely. BLM's decision canceling such lease will be vacated where it did not give the lessees the required notice.

CANCELLATION -
LEASES SUBJECT
TO P.L. 83-555
DO NOT TERMINATE
AUTOMATICALLY BY
OPERATION OF LAW

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March 29, 1979 - Merle C. Chambers (40 IBLA 144)

Oil and Gas Leases: Cancellation

An oil and gas lease issued for land available for leasing, but in violation of an administrative regulatory requirement, need not be canceled in the absence of an intervening qualified applicant or some overriding policy consideration.

CANCELLATION -
VIOLATION OF
ADMINISTRATIVE
REGULATORY
REQUIREMENT MAY
NOT RESULT IN
CANCELLATION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

December 14, 1978 - Benjamin T. Franklin (38 IBLA 291)

Accounts: Payments--Oil and Gas Leases: Reinstatements--Oil
and Gas Leases: Termination--Payments: Generally

Where checks submitted in payment of annual rental on oil and gas leases are returned by the drawee bank as uncollectible because they are postdated, and there has been no bank error, no tender or payment of annual rental has been made. In the absence of any other payment prior to the anniversary date, the leases terminate automatically by operation of law.

TERMINATION -
POSTDATED
CHECK RETURNED
BY BANK NOT
A TENDER OF
PAYMENT

An oil and gas lessee who submits payment of annual rentals with checks postdated by 15 days is not reasonably diligent in attempting to make payment thereof. So doing with the expectation that negotiation of the checks will not be delayed past the anniversary date unreasonably anticipates either that BLM will withhold processing the checks until they become valid or that the drawee bank will honor them despite the postdating.

POSTDATING
CHECKS NOT
REASONABLE
DILIGENCE

The inadvertent error of a person entrusted to mail payments for an oil and gas lease is not a justifiable excuse for delay in making the payment to warrant reinstatement of a terminated lease.

The absence of a lessee on vacation does not justify a failure to make timely rental payment.

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December 13, 1978 - Robert A. Chenoweth (38 IBLA 285)

Oil and Gas Leases: Cancellation--Oil and Gas Leases: Bona Fide Purchaser

Where a decision canceling an oil and gas lease has been issued by BLM and received at the lessee's address of record, any subsequent assignment of the lease will not be protected under the provisions of 30 U.S.C. 184(i) (1976), and whether or not the purported assignee is a bona fide purchaser is a moot question.

BONA FIDE
PURCHASER -
RECEIPT OF
CANCELLATION
DECISION BARS
PROTECTION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

December 8, 1978 - Lillie Belle Higgins (38 IBLA 254)
 Accounts Payments--Oil and Gas Leases: Rentals--Oil and Gas
 Leases: Termination--Payments: Generally--Words and Phrases

"Reasonable diligence" Where an oil and gas rental check bearing the due date of the lease is submitted a few days in advance thereof, but the check is returned by the BLM and thereupon a new check is promptly submitted, even if it could be considered that the lease had terminated, it would be eligible for reinstatement under 30 U.S.C. 188(c) (1976) because there has been reasonable diligence on the part of lessee.

REASONABLE
 DILIGENCE -
 DEFINITION

October 11, 1978 - Ram Petroleums, Inc., & Ramoco, Inc.
 (37 IBLA 184)
 Oil and Gas Leases: Reinstatement

To constitute a justifiable excuse for delay in making an oil and gas lease rental payment sufficient to warrant reinstatement of a lease terminated for late payment of rental, a lessee must show that the delay was caused by factors outside his control which were the proximate cause of his failure to pay the rental timely. Negligence of an employee in making timely rental payments and subsequent false statements to her employer that timely payments were made does not relieve the employer from responsibility to verify the employee's action and to make timely payment.

REINSTATEMENT -
 EMPLOYEE
 NEGLIGENCE/FALSE
 STATEMENTS NOT
 JUSTIFIABLE
 REASON FOR
 LATE PAYMENT

August 28, 1978 - Mercedes M. Peratt (36 IBLA 331)
 Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
 Rentals

An oil and gas lease terminated by operation of law for failure to pay advance rental timely will be reinstated when lessee shows that failure to pay the rental on or before the anniversary date was not due to a lack of reasonable diligence in that payment was mailed in California 6 days before due in Wyoming State Office.

REINSTATEMENT -
 REASONABLE
 DILIGENCE SHOWN
 BY TIMELY
 MAILING BEFORE
 DUE DATE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

August 15, 1978 - John D. Holt (36 IBLA 257)
Gas Leases: Reinstatement

Reasonable diligence normally requires sending or delivering payments sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment considering the distance involved. Where a letter is mailed on February 25 from Windom, Minnesota, to Cheyenne, Wyoming, where it is due on March 1, reasonable diligence has been exercised.

REINSTATEMENT -
REASONABLE
DILIGENCE SHOWN
BY TIMELY
MAILING BEFORE
DUE DATE

August 3, 1978 - Hubert W. Scudder, Eileen Scudder
(36 IBLA 191)
Oil and Gas Leases: Reinstatement

An oil and gas lease terminated by operation of law for failure of the lessee to pay the annual rental on or before the anniversary date of the lease may be reinstated only if the late payment is justifiable or not due to a lack of reasonable diligence. Where the death of a lessee's father occurs on February 28, the rent is mailed no earlier than February 28, and the rent is due and payable on March 1, the requisite proximity and causality to justify the delay in payment is not demonstrated.

TERMINATION -
FATHER'S DEATH
DAY PRIOR TO
DUE DATE NOT
JUSTIFIABLE
REASON FOR
LATE PAYMENT

July 31, 1978 - American Resources Management Corp.
(36 IBLA 157)
Oil and Gas Leases: Termination

The automatic termination provision in sec. 31 of the Mineral Leasing Act, as amended, does not apply to a situation where, due to other contingencies, additional rental may become due on a date other than the anniversary date of a lease.

TERMINATION -
NOT APPLICABLE
WHEN ADDITIONAL
RENT DUE ON
DAY OTHER THAN
ANNIVERSARY DATE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

June 30, 1978 - Frederick C. Farrington, George M. Hoffman
(36 IBLA 70)

Agency--Oil and Gas Leases: Reinstatement--Oil and Gas
Leases: Rental--Oil and Gas Leases: Termination

To constitute a justifiable excuse for delay in making an oil and gas lease rental payment sufficient to warrant reinstatement of a lease terminated for late payment of rental, a lessee must generally show the delay was caused by factors outside his control which were the proximate cause of his failure to pay the rental timely. The following are not ordinarily justifiable excuses: (1) reliance on receipt of a courtesy notice of rental; (2) selling a house and moving to another; (3) failure to show a causal link between the illness of lessee's friend and the failure to pay timely.

TERMINATION -
REASONS NOT
JUSTIFIABLE FOR
LATE PAYMENT

In the absence of joint lessees establishing the existence of a prior agreement that a particular lessee was responsible for payment of the oil and gas lease rental, the failure of the joint lessees to pay the rental timely is a joint failure and the joint lessees must each satisfy the reinstatement requirements of 30 U.S.C. 188(c) (1970). In the absence of reasonable diligence, the lease cannot be reinstated unless each joint lessee can show that he has a justifiable excuse for failing to pay the rental timely.

TERMINATION -
JOINT LESSEES
FAILURE TO
TIMELY PAY
ANNUAL RENTAL
MUST BOTH
SATISFY
REINSTATEMENT
REQUIREMENTS

June 2, 1978 - Pacific Transmission Supply Co. (35 IBLA 297)
Oil and Gas Leases: Rentals--Oil and Gas Leases: Termination

It is the responsibility of a lessee to see that any payment tendered for annual rental under an oil and gas lease is so identified that the appropriate State Office can credit the payment to the proper lease account. However, where an appellant demonstrates that the rental money was received timely by the appropriate State Office, and the evidence indicates that the lessee subsequently gave timely and proper instructions as to its application, the lease is properly deemed to have not terminated.

TERMINATION -
PROPER IDENTITY
OF RENT PAYMENT
RECEIVED TIMELY
PREVENTS LEASE
TERMINATION

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

May 26, 1978 - Robert W. David (35 IBLA 205)
Oil and Gas Leases: Cancellation

An oil and gas offer describing land which cannot be encompassed within a 6-mile square is defective and must be rejected, and where a lease is issued for part of the land embraced in the offer it must be canceled as to that land which is embraced in a proper offer filed prior to the issuance of the lease in order that the statutory preference right of the party first making a proper offer may be honored.

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR
LANDS OUTSIDE
6-MILE SQUARE
AREA WITH A
PROPER OFFER ON
PART OF LANDS

May 22, 1978 - Emma Pace (35 IBLA 143)
Oil and Gas Leases: Reinstatement

An oil and gas lease, terminated automatically by operation of law for failure to pay rental timely, may be reinstated if, among other things, the failure to pay timely was justifiable or not due to a lack of reasonable diligence on the part of the lessee. Mailing the rental payment after the due date does not constitute reasonable diligence. An automobile accident occurring 25 days before the rental was due is not a justifiable reason for reinstating the lease where it is not shown that its occurrence prevented the lessee from making timely payment. Reliance on receipt of a courtesy notice does not justify failure to pay rental timely.

TERMINATION -
AUTOMOBILE
ACCIDENT WELL
BEFORE DUE DATE
NOT JUSTIFIABLE
REASON FOR
LATE PAYMENT

May 10, 1978 - Hubert W. Scudder (35 IBLA 58)
Oil and Gas Leases: Reinstatement

Failure to pay oil and gas lease rental timely may be justifiable where it was caused by factors outside the lessee's control which were the proximate cause of the late payment. A lessee's head injuries requiring hospitalization during the month before the anniversary date of the lease constitutes proximate cause sufficient to justify late payment of the rental and to warrant reinstatement of the lease.

TERMINATION -
HEAD INJURIES
AND HOSPITAL
CARE DURING
MONTH BEFORE
DUE DATE JUSTIFY
REINSTATEMENT

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 26, 1978 - C. H. Winters (34 IBLA 350)
Oil and Gas Leases: Reinstatement

In order for the failure to pay oil and gas lease rental timely to be considered justifiable, it must be caused by factors outside the lessee's control, which were the proximate cause of the failure. Where the lessee has gone on a trip intending to return by mid-month but is delayed by the necessity of caring for an old and ill friend whom he visited, so that he does not return until the first of the next month, the anniversary date of the lease, his failure to pay the rental timely is justifiable and the lease is to be reinstated.

TERMINATION -
TRIP EXTENSION
TO CARE FOR ILL
FRIEND JUSTIFIES
REINSTATEMENT

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March 8, 1978 - Albert R. Fairfield (34 IBLA 132)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

Where a lessee presents no evidence that illnesses of his family members were so disruptive as to prevent him from carrying on his employment and other routine activities as usual, the late payment of rental on an oil and gas lease is not justified by these illnesses.

TERMINATION -
FAMILY MEMBER
ILLNESSES NOT
SUFFICIENTLY
DISRUPTIVE TO
JUSTIFY LEASE
REINSTATEMENT

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January 5, 1978 - Genevieve C. Aabye (33 IBLA 285)
Oil and Gas Leases: Reinstatement

In order for the failure to pay oil and gas lease rental timely to be considered justifiable, it must be caused by factors outside the lessee's control, which were the proximate cause of the failure. Severe winter weather and other circumstances which prevent the lessee from mailing the rental payment in a timely fashion constitute such a factor which renders the failure to pay the rental timely justifiable.

REINSTATEMENT -
SEVERE WINTER
WEATHER AND
OTHER CAUSES
THAT PREVENT
TIMELY PAYMENT
ARE JUSTIFIABLE
REASONS

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September 12, 1977 - Duncan Miller (32 IBLA 137)
Oil and Gas Leases: Cancellation

Where minerals not owned by the United States have been leased for oil and gas purposes under the terms of the Mineral Leasing Act for Acquired Lands, the lease must be canceled because only acquired lands owned by the United States are subject to leasing under that Act.

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR
MINERALS NOT
ACQUIRED BY U.S.

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H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 22, 1977 - Pauline V. Triqq, John H. Triqq (31 IBLA 296)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

Where it is alleged that a bank erroneously dishonored a check drawn thereon, and an official of the bank admits that the payment was refused by mistake, the error of the bank will not vitiate the otherwise proper payment of rent.

TERMINATION -
BANK ERROR WILL
NOT RESULT IN
TERMINATION

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March 4, 1977 - Read & Stevens, Inc.; Franklin, Aston & Fair, Ltd.; and Colorado Interstate Gas Company (29 IBLA 154)
Oil and Gas Leases: Generally--Oil and Gas Leases:
Reinstatement--Rules of Practice: Appeals: Generally--Rules of Practice: Appeals: Dismissal

An appeal to the Board of an automatic termination of an oil and gas lease will be dismissed as not ripe where appellant sends the appeal to the Board before a Notice of Termination of Lease has been issued and a Petition for Reinstatement rejected by the State Office, Bureau of Land Management.

TERMINATION -
PREMATURE APPEAL
PRIOR TO
RECEIPT OF
NOTICE

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February 23, 1977 - Billy Wright (29 IBLA 81)
Oil and Gas Leases: Reinstatement

An oil and gas lease terminated by operation of law for failure of the lessee to pay the annual rental on or before the anniversary date of the lease may be reinstated only if the late payment is justifiable or not due to a lack of reasonable diligence. Where information concerning the terminal illness of lessee's brother demonstrates the requisite proximity and causality to justify the delay in payment, the lease may be reinstated.

REINSTATEMENT -
TERMINAL ILLNESS
OF LESSEE'S
BROTHER
JUSTIFIABLE FOR
LATE PAYMENT

====

February 8, 1977 - Howard S. Bugbee (29 IBLA 30)
Oil and Gas Leases: Applicability--Oil and Gas Leases:
Cancellation

Where a regulation is amended in a way that benefits an oil and gas lessee, the Department may, in the absence of intervening rights of third parties or prejudice to the interests of the United States, apply the amendment to pending cases.
(continued)

CANCELLATION -
APPLY AMENDED
REGULATION TO
BENEFIT LESSEE
WITH LEASE NOT
CANCELED

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Cancellation of an oil and gas lease pursuant to statute, 30 U.S.C. 188(b) (1970), and the regulation promulgated thereunder is discretionary and not mandatory. An oil and gas lease need not be canceled because of the failure of the lessee to file a structure bond required by regulation, 43 CFR 3104.1(b), where there are extenuating circumstances and where there is no impairment of the rights of third parties and no adverse impact on the interest of the United States.

CANCELLATION -
DISCRETIONARY IF
NO THIRD PARTY
RIGHTS IMPAIRED
AND NO IMPACT ON
U.S. INTERESTS

=====

February 7, 1977 - Oil Resources Inc. (28 IBLA 394)
Oil and Gas Leases: Rentals--Oil and Gas Leases:
Reinstatement--Oil and Gas Leases: Termination--Words and
Phrases

The lessee of an oil and gas lease, issued after Sept. 2, 1960, which has reached the end of its primary term, must submit the rental for the first year of an anticipated extended term under 30 U.S.C. 226(e) (1970) on or before the regular anniversary date of the lease. Failure to submit the rental timely will result in the automatic termination of the lease by operation of law under 30 U.S.C. 188(b) (1970). Unless the lessee can show that he is entitled to reinstatement of this lease under 30 U.S.C. 188(c) (1970), he cannot obtain the extension.

TERMINATION -
FAILURE TO PAY
6TH/11TH YEAR
RENTAL FOR
EXTENDED TERM
FOR POST-
SEPT. 2, 1960,
LEASES

"Cancellation" and "termination." The "cancellation" and the "termination" of oil and gas leases are separate, distinct concepts. Cancellation requires a specific act by the Department authorized by various statutes. Termination under 30 U.S.C. 188(b) (1970) is automatic, occurring by operation of law when the lessee fails to pay his rental timely.

CANCELLATION
TERMINATION .
DISTINCT
DIFFERENCES

=====

December 27, 1976 - Agnes M. French (28 IBLA 282)
Oil and Gas Leases: Reinstatements

If the postmark on the rental payment envelope does not demonstrate reasonable diligence in the lessee's mailing of the payment, the Board will not go beyond it in the absence of exceptional circumstances. Substantial evidence will be required to corroborate any allegation to the contrary. A mere reference to a statement indicating that a check in payment of the rent was issued or sent on a certain date is not, by itself, sufficient.

TERMINATION -
POSTMARK
EVIDENCE FAILS
TO SHOW
REASONABLE
DILIGENCE

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

November 9, 1976 - Jack R. Coombs (28 IBLA 53)
Oil and Gas Leases: Cancellation

Where the Bureau of Land Management sends notice to an offeror at his record address, pursuant to 43 CFR 3103.3-1, that the first year's rental accompanying his noncompetitive oil and gas lease offer is deficient and such notice is returned to the Bureau marked "Unclaimed" by the post office, the cancellation of the lease will be set aside and the notice will not be considered to have been served on the offeror, pursuant to 43 CFR 1810.2(b), when the post office has failed to forward the notice in accordance with a request by the offeror to forward all mail and other mail has, in fact, been forwarded.

CANCELLATION -
RENT DEFICIENCY
NOTICE
MISHANDLED BY
POSTAL SERVICE
WITH LESSEE
NOT PROPERLY
SERVED

July 26, 1976 - Estate of John P. Wagner and The Superior Oil Co. (26 IBLA 119)
Oil and Gas Leases: Cancellation

The statute, 30 U.S.C. 188(b) (1970), and regulation, 43 CFR 3108.2-3, concerning the cancellation of oil and gas leases are discretionary not mandatory.

CANCELLATION -
DISCRETIONARY

It is improper to cancel an oil and gas lease for failure of the lessee to file a bond required by regulation, 43 CFR 3104.1(b), where there are extenuating circumstances and where there is no impairment of third party rights and no adverse impact on the interests of the United States.

NO IMPAIRMENT OF
THIRD PARTY
RIGHTS AND NO
IMPACT ON
U.S. INTERESTS

=====

July 19, 1976 - S. Norman Stark (26 IBLA 87)
Oil and Gas Leases: Cancellation

The Bureau of Land Management has no authority to reinstate an oil and gas lease terminated by operation of law for failure to pay rental on or before the anniversary date when a valid lease for the same land has been issued prior to the filing of the petition for reinstatement. Therefore, unless the first lease is deemed not to have terminated, it is erroneous to cancel the subsequent valid lease.

CANCELLATION -
ERRONEOUS TO
CANCEL VALID
LEASE IF PRIOR
LESSEE FAILED
TO PETITION FOR
REINSTATEMENT

=====

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 13, 1976 - Paul D. Beard, Jr., and Leon F. Scully, Jr.
(26 IBLA 79)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

An oil and gas lease terminated by operation of law for failure to pay the advance rental timely will be reinstated where it is shown that lessee's failure to pay the rental timely was not due to a lack of reasonable diligence. Evidence which establishes the payment due on December 1, 1975, at the Eastern States Office, BLM, Silver Spring, Maryland, was delivered to a postal carrier on November 11, 1975, is sufficient to demonstrate due diligence despite the fact that the envelope containing the payment was postmarked December 8, 1975, and not received until December 11, 1975, where a credible explanation of the delay has been furnished by the Post Office.

REINSTATEMENT -
POSTAL SERVICE
PROVIDED
CREDIBLE
EXPLANATION FOR
DELIVERY DELAY
OF RENT PAYMENT

=====

June 28, 1976 - John T. Stewart III, Harlan C. Altman, Jr.
(Trustee) (25 IBLA 306)

Oil and Gas Leases: Acreage Limitations--Oil and Gas Leases:
Cancellation

An oil and gas lease issued for 2,960 acres in violation of administrative regulations need not be canceled in its entirety, in the absence of an intervening qualified applicant.

CANCELLATION -
VIOLATION OF
ADMINISTRATIVE
REGULATIONS

=====

May 18, 1976 - A. Helander (25 IBLA 54)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals

An oil and gas lease, terminated because the advance rental was received 1 day after the due date, may be reinstated where it is shown that the lessee mailed the rental payment 3 days prior to the due date from the main post office in the same city where the BLM's field office is located and the postal authorities verify that there has been a delay in the processing of the mail at that particular time. Under these circumstances the lessee will be considered to have mailed the payment with due diligence.

REINSTATEMENT -
VERIFICATION BY
POSTAL SERVICE
OF DELAY IS
PROOF OF
DILIGENCE THAT
RENT PAID TIMELY

===:

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

April 27, 1976 - Amerada Hess Corp. (24 IBLA 360)
Oil and Gas Leases: Cancellation

It is improper to dismiss a protest against issuance of an oil and gas lease applied for pursuant to the Act of May 21, 1930, 30 U.S.C. 301 et seq. (1970), for lands underlying a railroad right-of-way granted under the Act of Mar. 3, 1875, when the lands traversed by the right-of-way were later patented without a reservation for minerals. In such case title to the mineral estate underlying the right-of-way is no longer held by the United States and, therefore, a lease issued pursuant to the 1930 Act is void and must be canceled

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR LANDS
UNDER RAILROAD
RIGHT-OF-WAY
WITH MINERAL
ESTATE PATENTED

April 5, 1976 - Fredres E. Laubaugh (24 IBLA 306)
Oil and Gas Leases: Reinstatement

An oil and gas lease may be reinstated where it appears that the lessee's failure to pay annual rental on time is due to the death of a member of the family in close proximity to the anniversary date of the lease.

REINSTATEMENT -
FAILURE TO PAY
RENT TIMELY DUE
TO FAMILY DEATH
NEAR DUE DATE

May 8, 1975 - Joseph E. Steger (20 IBLA 206)
Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Rentals--Oil and Gas Leases: Termination

An oil and gas lease terminated by operation of law for failure to pay the annual rental on time may be reinstated where the lessee's delay in making payment was due to his seeking clarification of an illegible notice of payment sent to the BLM, and his action demonstrates his reliance on the notice.

REINSTATEMENT -
CLARIFICATION OF
ILLEGIBLE NOTICE
RELIED ON BY
LESSEE

April 7, 1975 - David Kirkland (19 IBLA 305)
Oil and Gas Leases: Reinstatement

An oil and gas lease, terminated by operation of law because the annual rental payment was not received until one day after the due date, may be reinstated upon proper application where the delay in payment is due to accidental injury which prevented lessee's business from being conducted in normal manner.

REINSTATEMENT -
LATE PAYMENT DUE
TO ACCIDENTAL
INJURY THAT
PREVENTED NORMAL
BUSINESS CONDUCT

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

September 12, 1974 - Ada E. Lundgren, Norman L. Lundgren
(17 IBLA 132)

Oil and Gas Leases: Reinstatement

An oil and gas lease, terminated because the rental was not received until eight days after the due date, may be reinstated upon proper application where the delay in paying is attributed to a sudden illness which prevented the lessee from the normal conduct of her business.

REINSTATEMENT -
SUDDEN ILLNESS
OF LESSEE
JUSTIFIABLE FOR
LATE PAYMENT

February 5, 1974 - Oil Resources Incorporated (14 IBLA 333)
Oil and Gas Leases: Bona Fide Purchaser

The protection to a bona fide purchaser of an oil and gas lease afforded by 30 U.S.C. 184(h)(2), and 184(i) (1970) is not available where the lease involved is a nullity.

BONA FIDE
PURCHASER -
NO PROTECTION IF
LEASE A NULLITY

January 23, 1974 - Margaret S. Decker (14 IBLA 215)
Oil and Gas Leases: Reinstatement--Withdrawals and
Reservations: Effect of

Where an oil and gas lease is terminated by operation of law and the lands involved are withdrawn from mineral leasing either before or after such a termination, a petition for reinstatement of the lease must be rejected, notwithstanding a finding of justifiable delay. 43 CFR 3108.2-1(c)(3).

TERMINATION -
LANDS WITHDRAWN
FROM LEASING
PREVENT LEASE
REINSTATEMENT

=====

January 17, 1974 - Herman A. Keller (14 IBLA 188)
Oil and Gas Leases: Bona Fide Purchaser

In order to invoke the bona fide purchaser protection afforded by the Act of September 21, 1959, 73 Stat. 571, as amended, 30 U.S.C. 184(h) (1970), as regards an oil and gas lease, the lease must have been issued; until execution and issuance of the lease, only an offer exists, and the assignment of rights in such an offer is without the purview of the bona fide purchaser provisions in the Mineral Leasing Act.

BONA FIDE
PURCHASER -
NO PROTECTION
EXISTS PRIOR TO
LEASE ISSUANCE

=====

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

July 11, 1973 - Claude C. Kennedy 12 IBLA 183)
Oil and Gas Leases: Cancellation

Where an oil and gas lease has been issued in violation of regulations, and there is no junior offeror having intervening rights, the lease ordinarily will be permitted to stand. However, where the land is not subject to "over-the-counter" filings, a lease issued pursuant to such a filing is properly canceled.

CANCELLATION -
LEASE IMPROPERLY
ISSUED

=

January 16, 1973 - Pennzoil United, Inc. (9 IBLA 88)
Oil and Gas Leases: Termination

An oil and gas lease will not be deemed to have automatically terminated under 30 U.S.C. 188(b) for failure to pay rental on or before the anniversary date of the lease when the assignor of such lease paid the rental seven months in advance, but the Bureau erroneously returned payment to assignor without notifying the assignee of the refund, even though the assignee was record holder of the title.

TERMINATION -
ERRONEOUS RETURN
OF TIMELY
PAYMENT DEEMS
LEASE NOT TO
HAVE TERMINATED

December 6, 1972 - Louis Samuel, et al., (8 IBLA 268)
Oil and Gas Leases: Reinstatement--Words and Phrases

NOTE: This is the landmark decision defining "reasonable diligence" and "justifiable delay."

"Reasonable diligence". As used in P.L. 91-245, and in 43 CFR 3108.2-1(c)(2) "reasonable diligence" in transmitting timely a rental payment for an oil and gas lease is interpreted as meaning posting the payment through the United States mail at no later date than that on which letters mailed thereon would, despite normal delays in the collection, transmittal, and delivery of mail, be delivered to the appropriate land office on or before the due date of the rental.

REASONABLE
DILIGENCE -
DEFINITION
WHEN USING
POSTAL SERVICE

"Justifiable Delay". As used in P.L. 91-245, "justifiable delay" in making an oil and gas lease rental payment will be recognized only where sufficiently extenuating circumstances are present so as to affect the lessee's actions.

JUSTIFIABLE
DELAY -
DEFINITION

=====

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

September 25, 1972 - Roy W. Reed (7 IBLA 321)

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:
Relinquishment

There is no authority in the Secretary of the Interior to
reinstate an oil and gas lease which has been relinquished.

RELINQUISHED
LEASE CANNOT BE
REINSTATED

One who voluntarily surrenders his oil and gas lease, by
filing a written relinquishment thereof in the appropriate
BLM office, cannot withdraw his relinquishment.

RELINQUISHMENT
CANNOT BE
WITHDRAWN

=====

August 29, 1972 - Tenneco Oil Company (7 IBLA 151)

Oil and Gas Leases: Bona Fide Purchaser

The purchaser of an assignment of an oil and gas lease is
presumed to have knowledge of the date and terms of the
lease and its status at the time of the assignment. If he
does not, he is put on inquiry.

BONA FIDE
PURCHASER -
PROTECTION OF
ASSIGNEE

=====

May 12, 1972 - Arthur E. Meinhart, Irwin Rubenstein,
Appellants, Bruce Anderson, Appellee (6 IBLA 39)

Oil and Gas Leases: Cancellation

The description in an acquired lands oil and gas lease offer
of a parcel of unsurveyed land without metes and bounds
showing courses and distances between successive angle
points and a tie by course and distance to a nearby official
survey corner is defective, and a lease issued pursuant to
the offer must be canceled where a junior offer properly
describes the land in conformity with the regulations.

CANCELLATION -
LEASE ISSUED FOR
DEFECTIVE OFFER
WHEN A PROPER
JUNIOR OFFER
EXISTS

=====

February 22, 1972 - Duncan Miller (5 IBLA 21)

Oil and Gas Leases: Cancellation

Where land not owned by the United States has been leased
for oil and gas purposes under the terms of the Mineral
Leasing Act for Acquired Lands, the lease must be canceled
as only land owned by the United States is subject to
leasing under that Act.

CANCELLATION -
LEASE IMPROPERLY
ISSUED FOR
LANDS NOT OWNED
BY THE U.S.

=====

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

February 18, 1972 - Husky Oil Company of Delaware, Depco, Inc. (5 IBLA 7)

Oil and Gas Leases: Rentals--Oil and Gas Leases:
Termination--Statutory Construction: Generally

Congress intended that the automatic termination provision of 30 U.S.C. 188 (1970) apply to the regular, annual rental payment, the necessity for which a lessee had continuous notice and that provision was not intended to apply to a case where a lessee had no way of knowing that the obligation had accrued.

TERMINATION -
NOT APPLICABLE
WHEN PAYMENT DUE
DATE IS OTHER
THAN REGULAR
ANNUAL DUE DATE

November 27, 1970 - Sarkeys, Inc. (1 IBLA 123; 77 I.D. 207)

Oil and Gas Leases: Bona Fide Purchaser--Oil and Gas Leases:
Cancellation

Where an oil and gas lease is considered to have been terminated pursuant to 30 U.S.C. sec. 188(b) and the rental payment to preclude such termination had been timely submitted to the land office but inadvertently applied to another lease account, and then refunded to the payor when the lease to which payment had been attributed was relinquished, who accepted the refund without question, it is correct to hold that the lessee's rights in the terminated lease have been extinguished, and that a new oil and gas lease, duly issued for such lands and thereafter assigned to a bona fide purchaser, is valid.

BONA FIDE
PURCHASER
PROTECTION

=====

Example of Postmarks by U.S. Postal Service and Private Postal Meter

POSTMARK BY U.S. POSTAL SERVICE



POSTMARK BY PRIVATE POSTAL METER



NOTE THE "P" AND "O" (arrows shown) IN THE TOP EXAMPLE
WHICH ARE NOT SHOWN IN THE LOWER PRIVATE POSTAL METER EXAMPLE.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

Listing of ALMRS (Case Recordation) Data Element (DE)
1775 and 2910 Action Codes Applicable to Handbook 3108-1*

DE 1775

001 Apln Recd/Case Established@#
093 Rental Rate Det/Adj#
112 Addtl Info Rqstd@
113 Addtl Info Recd
152 Report Requested@
153 Report Received
176 Authorization Issued#
202 Competitive Pending
225 Effective Date#
240 Published
247 Future Action Suspense
258 Extended#
102 Rlty Rate - 12½%#
103 Rlty Rate - 16%#
108 Rlty Rate - Other#
624 Rlty Reduction Filed@
625 Rlty Reduction Appv#
626 Rlty Reduction Denied#
315 Sus Ops & Prod/No Pmt#
316 Susp Lifted#
718 Dec Issued
720 Dec Revrsd & Remanded@
756 Canceled#
757 Canceled in Part#
763 Expires#
772 Reinstatement Filed@#
773 Reinstatement Approved#
774 Reinstatement Denied#
775 Reinstatement Withdrawn#
780 Relq Filed@#
781 Relq (Partial) Filed@#
782 Relq Accepted#
783 Relq (Partial) Accepted#
784 Relq Accepted in Part#
785 Relq Unacpt/Denied#
790 Terminated#
791 Terminat'n Notice Issued#
792 Termination Vacated#
970 Case Closed#

DE 2910

124 Application Recd@#
315 Rental Rate Det/Adj#
104 Addtl Info Rqstd@
103 Addtl Info Recd
910 Report Requested@
911 Report Received
237 Lease Issued#
202 Competitive Pending
868 Effective Date#
610 Published
247 Future Action Suspense
235 Extended#
530 Rlty Rate - 12½%#
531 Rlty Rate - 16%#
536 Rlty Rate - Other#
624 Rlty Reduction Filed@
625 Rlty Reduction Appv#
626 Rlty Reduction Denied#
676 Sus Ops & Prod/No Pmt#
678 Susp Lifted#
393 Dec Issued
366 Dec Revrsd & Remanded@
199 Canceled#
200 Canceled in Part#
763 Expires#
284 Reinstatement Filed@#
282 Reinstatement Approved#
283 Reinstatement Denied#
292 Reinstatement Withdrawn#
311 Relq Filed@#
312 Relq (Partial) Filed@#
310 Relq Accepted#
890 Relq (Partial) Accepted#
784 Relq Accepted in Part#
313 Relq Unacpt/Denied#
244 Terminated#
791 Terminat'n Notice Issued#
792 Termination Vacated#
970 Case Closed#

* See official fluid leasing data standards for complete listing
@ Pending action required.
Mandatory use of action code required.

H-3108-1 - RELINQUISHMENTS, TERMINATIONS, AND CANCELLATIONS

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